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November 4, 2013

**VIA E-MAIL AND FEDERAL EXPRESS**

Michael A. Mintzer  
Assistant Regional Counsel  
New York/Caribbean Superfund Branch  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region II  
290 Broadway, 17<sup>th</sup> Floor  
New York, New York 10007-1866

**Re: Newtown Creek Superfund Site  
Response to EPA Request for Information Pursuant to CERCLA § 104(e)**

Dear Mr. Mintzer:

This letter timely responds to the United States Environmental Protection Agency's ("EPA") September 16, 2013 Request for Information pursuant to Section 104(e) of CERCLA ("the Request"), sent to The Mosaic Company as an alleged successor to The American Agricultural Chemical Company, concerning the Newtown Creek Superfund Site in Kings County and Queens County, New York.

The Mosaic Company makes the following objections and general points with respect to the 104(e) Request:

1. The Mosaic Company generally objects to the Request to the extent it seeks information or documents protected from discovery by the attorney-client privilege, the attorney work product doctrine, the joint defense or common interest privilege, the self-evaluative privilege or any other applicable privilege or doctrine. Nothing contained in these objections or the responses below is intended as, or shall in any respect be determined to be, a waiver of any such privilege.
2. The Mosaic Company generally objects to the Request to the extent it seeks confidential or proprietary business information of The Mosaic Company or any settlement confidential information.
3. The Mosaic Company generally objects to the Request to the extent it seeks information and/or documents not in the possession, custody or control of The Mosaic Company.
4. The Mosaic Company generally objects to the Request to the extent it is overbroad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence or information necessary or useful to EPA's investigation, or beyond the authority provided in CERCLA Section 104(e).

5. The Mosaic Company generally objects to the Request to the extent it seeks information which may be derived or ascertained from documents already within the knowledge, possession or control of EPA.

6. This response reflects a thorough and diligent search of The Mosaic Company's records. However, The Mosaic Company makes no representation that all such records have been located and searched. The Mosaic Company reserves the right to supplement this response in the event that it locates additional responsive non-privileged documents or information, but does not assume the obligation to do so.

7. The Mosaic Company generally objects to Instructions 5 and 6 of the Request, which direct The Mosaic Company to "consult with all present and former employees and agents of the Company whom [The Mosaic Company has] reason to believe may be familiar with the matter to which each question pertains," and to "identify each individual and any other source of information . . . that was consulted in the preparation of the response," as unduly repetitive and overly burdensome. The Mosaic Company states generally that it made a thorough and diligent search for potentially relevant and responsive information, and that a number of individuals were consulted in trying to locate information responsive to the Request. Those who were directly involved in determining substantive information used in these responses are the following:

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Notwithstanding the foregoing objections, and preserving and without waiving them, The Mosaic Company responds to the Request, incorporating each of the above objections, as follows:

## **Section 1.0 Company Information**

**1. Company Identification. Provide the following information with respect to the Company (see Definition 7).**

**a. The full legal, corporate name and mailing address.**

The Mosaic Company, 3033 Campus Drive, Suite E490, Plymouth, MN 55441

**b. The state and date of incorporation of the Company, the date of qualification to do business in the State of New York and the Company's agents for service of process in the state of incorporation and the State of New York.**

The Mosaic Company was incorporated in Delaware on March 25, 2004. The Mosaic Company's agent for service of process in Delaware is Corporation Trust Center.

The Mosaic Company is not qualified to do business in the State of New York and does not have an agent for service of process in the State of New York.

**c. The identity of the Chief Executive Officer or other presiding officer of the Company.**

James T. Prokopanko is the President and Chief Executive Officer of The Mosaic Company.

**d. Please identify the relationship between the Company and Freeport-McMoRan, Inc. with respect to The American Agricultural Company ("TAACC") and Agrico Chemical Company or the business or assets of TAACC and Agrico Chemical Company.**

From a review of records in The Mosaic Company's possession, it appears that:

- The American Agricultural Chemical Company ("TAACC") entered into an Agreement with Continental Oil Company on July 11, 1963 under which a subsidiary of Continental Oil Company (believed by The Mosaic Company to be Fos-Kem Liquidation Corporation) acquired all of TAACC's assets, and assumed TAACC's liabilities and obligations. (A copy of the relevant sections of the July 11, 1963 Agreement is attached at Tab 1.)
- Fos-Kem Liquidation Corporation changed its name to American Agricultural Chemical Company ("AACC") on October 21, 1963. (A copy of the Certificate of Amendment of Certificate of Incorporation of Fos-Kem Liquidation Corporation is attached at Tab 2.)

- TAACC changed its name to Fos-Kem Liquidation Corporation on October 21, 1963. (A copy of the Certificate of Amendment of Certificate of Incorporation of The American Agricultural Chemical Company is attached at Tab 3.)
- Fos-Kem Liquidation Corporation (f/k/a TAACC) was dissolved on October 21, 1963. (A copy of the Certificate of Dissolution of Fos-Kem Liquidation Corporation is attached at Tab 4.)
- AACC, then a wholly-owned subsidiary of Continental Oil Company, was merged into Continental Oil Company as of December 31, 1965. All assets of AACC were vested in Continental Oil Company, and Continental Oil Company assumed all of the obligations of AACC. (A copy of the Certificate of Ownership and Merger Merging American Agricultural Chemical Company into Continental Oil Company is attached at Tab 5.) Thus, based on documents in the possession of The Mosaic Company, Continental Oil Company acquired the assets of, and assumed liabilities associated with, TAACC as of December 31, 1965.
- Agrico Chemical Company was separately incorporated in Delaware on January 27, 1966 as a subsidiary of Continental Oil Company. (A copy of the Certificate of Incorporation of Agrico Chemical Company is attached at Tab 6, and a copy of the Return of Corporation Doing Business in Oklahoma, attached at Tab 7, shows that Continental Oil Company was the parent company of Agrico Chemical Company.)
- Continental Oil Company assigned the stock of Agrico Chemical Company to The Williams Companies on February 1, 1972. (A copy of the stock certificate evidencing the assignment of shares is attached hereto at Tab 8.)
- Continental Oil Company, Agrico Chemical Company, and The Williams Companies entered into a Purchase Agreement dated February 1, 1972, whereby Continental Oil Company sold to Agrico Chemical Company all of the assets used in its plant foods business, including its Agrico Chemical Division. Under Section V.B. of the Agreement, Continental Oil Company expressly assumed "liability for all claims, demands and causes of action against Conoco accruing prior to February 1, 1972." (A copy of relevant sections of the February 1, 1972 Purchase Agreement is attached hereto at Tab 9.)
- Agrico Chemical Company was merged with and into Willchemco, Inc., and the surviving corporation was named Agrico Chemical Company on June 30, 1972. (A copy of the relevant sections of the Certificate of Agreement of Merger of Agrico Chemical Company Merging Willchemco, Inc. Under Name of Agrico Chemical Company is attached at Tab 10.)
- Freeport-McMoRan Resource Partners, Limited Partnership<sup>1</sup> purchased substantially all of the assets of Agrico Chemical Company and assumed

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<sup>1</sup> At the time of the transaction, Freeport-McMoRan Inc. and its affiliates owned an 81% partnership interest in Freeport-McMoRan, Limited Partnership. (A copy of the relevant

substantially all of the liabilities of Agrico Chemical Company under an Asset Purchase Agreement dated February 28, 1987. Freeport-McMoRan Resource Partners, Limited Partnership did not assume any claims or liabilities to the extent such claims or liabilities are covered by insurance policies or indemnification arrangements with third parties under which The Williams Companies or Agrico Chemical Company is a named insured or beneficiary. (A copy of relevant sections of the February 28, 1987 Asset Purchase Agreement is attached at Tab 12.)

- On April 5, 1993, Freeport-McMoRan Resource Partners, Limited Partnership and IMC Fertilizer, Inc. formed IMC-Agrico Company, a Delaware general partnership and entered into a Contribution Agreement of that same date. The partners transferred to the partnership the majority of the assets, properties and business relating to the Phosphate Chemical Business. In particular, Freeport McMoRan Resource Partners, Limited Partnership contributed the majority of the assets then held by Agrico Chemical Company. The liabilities assumed by IMC-Agrico Company generally included all past, present and future Environmental Liabilities related primarily to the Contributed Businesses. (A copy of relevant sections of the April 5, 1993 Contribution Agreement is attached at Tab 13.)
- IMC-Agrico Company changed its name to IMC Phosphates Company on June 6, 2000. (A copy of the Fourth Amendment and Agreement Under the Partnership Agreement is attached at Tab 14.)
- IMC Phosphates Company changed its name to Mosaic Phosphates Company on October 22, 2004. (A copy of the Certificate of Amendment of Statement of Partnership Existence of IMC Phosphates Company is attached at Tab 15.)
- On July 29, 2005, Mosaic Phosphates Company merged with and into Mosaic Fertilizer, LLC. (A copy of the Certificate of Merger of Mosaic Phosphates Company into Mosaic Fertilizer, LLC is attached at Tab 16.)
- Freeport Uranium Recovery Company, a wholly-owned subsidiary of Freeport-McMoRan Inc., purchased the stock of Agrico Chemical Company from The Williams Companies under a Stock Purchase Agreement dated February 28, 1987. (A copy of relevant sections of the February 28, 1987 Stock Purchase Agreement is attached at Tab 17.)
  - The stock of Agrico Chemical Company was issued to Freeport-McMoRan Resource Partners, Limited Partnership on December 22, 1997.

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portions of the Premerger Notification showing the ownership percentage is attached at Tab 11.)

(A copy of the stock certificate evidencing this issuance is attached at Tab 18.)

- Freeport-McMoRan Resource Partners, Limited Partnership changed its name to Phosphate Resource Partners Limited Partnership on January 27, 1998. (A copy of the Certificate of Amendment to Amended and Restated Certificate of Partnership of Freeport-McMoRan Resource Partners, Limited Partnership is attached at Tab 19.)
- Phosphate Resource Partners Limited Partnership merged with and into Phosphate Acquisition Partners L.P. on October 19, 2004. Two wholly owned subsidiaries of The Mosaic Company, PRP-GC LLC and FMRP Inc., currently hold the partnership interests in Phosphate Acquisition Partners L.P. (A copy of the Certificate of Merger of Phosphate Resource Partners Limited Partnership into Phosphate Acquisition Partners L.P. is attached at Tab 20.)

In summary, the stock of Agrico Chemical Company is currently owned by Phosphate Acquisition Partners L.P., and substantially all of the assets and liabilities of Agrico Chemical Company were acquired by Freeport-McMoRan Resource Partners, Limited Partnership and subsequently by Mosaic Fertilizer, LLC.

**2. Relationship to The American Agricultural Chemical Company and Agrico Chemical Company and Other Related Entities.**

- a. Did the Company acquire the business or assets of the entities known as The American Agricultural Chemical Company or Agrico Chemical Company? If your answer is yes:**

Based on a review of records in the possession of The Mosaic Company, and as outlined in the response to Question 1, the assets of The American Agricultural Chemical Company were acquired by a subsidiary of Continental Oil Company (see Tab 1), which was then merged into Continental Oil Company on December 31, 1965 (see Tab 5). Further, according to the Purchase Agreement dated February 1, 1972 among Continental Oil Company, Agrico Chemical Company, and The Williams Companies, Continental Oil Company sold to Agrico Chemical Company all of the assets used in its plant foods business, including its Agrico Chemical Division. (See Tab 9.)

Finally, based upon a review of records in the possession of The Mosaic Company, and as outlined in the response to Question 1, the stock and assets of Agrico Chemical Company ultimately were acquired by entities which today are subsidiaries of The Mosaic Company.

**i. Did the Company acquire such business or assets from Freeport-McMoRan, Inc. or an affiliate.**

Yes. Please see the response to Question 1.

**ii. If the answer to the foregoing question is no, identify the entity from whom such business or assets was acquired.**

N/A

**iii. Identify the arrangements in the acquisition documents addressing legacy environmental liabilities of such business or assets and provide a copy of the acquisition documents relating to such legacy liabilities, including legacy liabilities associated with The American Agricultural Chemical Company and Agrico Chemical Company.**

Please see the response to Question 1. Based upon a review of records in the possession of The Mosaic Company:

- Continental Oil Company retained “liability for all claims, demands and causes of action against Conoco accruing prior to February 1, 1972,” which liabilities include those associated with The American Agricultural Chemical Company as of December 31, 1965. (See Tabs 5 & 9.)
- Freeport-McMoRan Resource Partners, Limited Partnership purchased substantially all of the assets of Agrico Chemical Company and assumed substantially all of the liabilities of Agrico Chemical Company under an Asset Purchase Agreement dated February 28, 1987, except to the extent that such liabilities were covered by existing insurance policies or indemnification agreements. (See Tab 12.)
- On April 5, 1993, Freeport-McMoRan Resource Partners, Limited Partnership and IMC Fertilizer, Inc. formed IMC-Agrico Company, a Delaware general partnership. The partners transferred to the partnership the majority of the assets, properties and business relating to the Phosphate Chemical Business. In particular, Freeport McMoRan Resource Partners, Limited Partnership contributed the majority of the assets then held by Agrico Chemical Company. The liabilities assumed by IMC-Agrico Company generally included all past, present and future

Environmental Liabilities related primarily to the Contributed Businesses. (See Tab 13.)

- b. Please identify any entity not related to the Company who the Company believes may be responsible pursuant to CERCLA for contamination attributable to The American Agricultural Chemical Company/Agrico Chemical Company. Please describe the basis for such belief and provide any documentary information supporting the Company's belief.**

Please see the response to Questions 1 and 2a. Based upon a review of records in the possession of The Mosaic Company, Continental Oil Company is responsible for contamination attributable to: (1) The American Agricultural Chemical Company; and (2) Agrico Chemical Company, to the extent the contamination occurred prior to February 1, 1972.

- 3. Future EPA Communications. If the addressee of this letter requests that future communications from EPA regarding the Site be sent to a particular individual or office, provide the name, address, telephone number, e-mail address and capacity of such individual or office.**

Please direct all correspondence with The Mosaic Company related to the Newtown Creek Site to:

The Mosaic Company  
Attention: Sarah Sorenson, Environmental Counsel  
3033 Campus Drive, Suite E490  
Plymouth, MN 554441  
763-276-6831  
[sarah.sorenson@mosaicco.com](mailto:sarah.sorenson@mosaicco.com)

- 4. Operations at the Facility.**

- a. Please identify the principal business operations conducted by The American Agricultural Chemical Company during the years 1900 through 1932.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify documents or other information relating to the principal business operations conducted by The American Agricultural Chemical Company during the years 1900 through 1932.

- b. Please identify all business operations conducted at the Facility by The American Agricultural Chemical Company between the years 1900 and 1932.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify documents or other information relating to the business operations conducted at the Facility by The American Agricultural Chemical Company between the years 1900 through 1932.

- c. Please identify all products produced, manufactured, assembled, or otherwise made available for sale at or from the Facility and identify the markets into which those products were sold or traded.**

The Mosaic Company has located a New York Times article dated March 26, 1909, which indicates that the American Agricultural Chemical Company operated a warehouse at Railroad Avenue and Inwood Street in Blissville that contained bagged guano. (A copy of the article is attached hereto at Tab 21.) After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any additional documents or other information relating to the products produced, manufactured, assembled or otherwise made available for sale at or from the Facility.

- d. Identify all products produced, manufactured, assembled or otherwise made available for sale by The American Agricultural Chemical Company at any of its plants between the years 1900 and 1932.**

Please see the response to Question 4.c. and Tab 21. After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any additional documents or other information relating to the products produced, manufactured, assembled or otherwise made available for sale by The American Agricultural Chemical Company at any of its plants between the years 1900 and 1932.

**5. Facility Plan and Historic Maps, Drawings, Surveys and Photographs of the Facility.**

- a. Facility Plan. Please provide a Facility Plan, if in the possession of the Company, showing, to the extent known:**
- i. Buildings and improvements,**
  - ii. Bulkheads,**
  - iii. Ship loading and unloading and vehicle loading and unloading areas,**
  - iv. Sanitary and storm sewers,**
  - v. Below-ground infrastructure including tanks, spill containment facilities and pipes,**
  - vi. Over-water or in-water facilities (e.g., piers, docks, cranes), and**

**vii. Discharge facilities including pipes discharging to Newtown Creek or NYC sewers and other discharge facilities.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify a Facility Plan.

- b. Historic Photos, Maps, Surveys, Etc. Please provide such other maps, drawings, surveys (including Sanborn maps) and historic photographs (including aerial photos) in the Company's possession which provide information relevant to the layout, construction, processes, bulkheads, or vehicle activities (washing, servicing, fueling or storage), or other operations at the Facility.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any maps, drawings, surveys or historic photographs which provide information relevant to the layout, construction, processes, bulkheads, or vehicle activities, or other operations at the Facility.

**6. Current and Historic Depiction of the Facility.**

- a. Provide a copy of schematic drawings or plans, in the Company's possession, depicting the manufacturing processes and infrastructure employed in operations at the Facility.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any schematic drawings or plans depicting the manufacturing processes and infrastructure employed in operations at the Facility.

- b. Provide such other drawings, maps, photographs and surveys, including, for example, Sanborn maps of the Facility, in the Company's possession showing features of the Facility either before or during the time of ownership or operation that would provide an understanding of the configuration of and operations at the Facility.**

As described in the timeline set forth in Question 1, The Mosaic Company did not own or operate the Facility, and after conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any drawings, maps, photographs or surveys showing features of the Facility.

**7. Bank Erosion, Overland Transport and Overwater Activities at or From the Facility to Newtown Creek.**

- a. Description of Bulkheads and Bank Stabilization.** Describe all bank stabilization systems at the Facility, including bulkheads, rip rap, vegetation or other systems, and the construction materials and mode of construction used. Identify on the Facility Plan the extent and type of shoreline stabilization at all areas of the Facility. State whether there has been or whether there is any ongoing bank erosion, and identify on the Facility Plan the location of shoreline erosion. Identify the Company's role and responsibility in building and maintaining the bulkheads and other shoreline stabilization systems. Describe the system, if any, for preventing materials upland of the bulkhead from releasing into Newtown Creek. State whether there are weep holes or gaps or openings in the bulkheads or shoreline stabilization systems and, if so, whether upland storm water, Facility materials or water from Newtown Creek passes through the bulkhead or shoreline stabilization system.

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any information relating to any bank and/or stabilization systems at the Facility.

**b. Documents Relating to Bank Stabilization.**

- i. Provide a complete set of construction drawings and specifications relating to bulkheads and other bank stabilization systems.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any construction drawings and/or specifications relating to bulkheads and other bank stabilization systems at the Facility.

- ii. Identify all permits issued to the Company for bulkheads or other bank stabilization systems and provide a copy of all permits and permit applications.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any permits issued for bulkheads or other bank stabilization systems at the Facility.

- iii. Provide a copy of all correspondence with regulatory authorities relating to bulkheads and bank stabilization, including, without limitation, notices of violation and their disposition.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any correspondence with regulatory authorities relating to bulkheads and bank stabilization at the Facility.

**iv. Provide a copy of all studies, reports or plans relating to the construction, repair or maintenance of bulkheads and other shoreline stabilization systems.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any studies, reports or plans relating to the construction, repair or maintenance of bulkheads and other shoreline stabilization systems at the Facility.

**v. Provide a copy of all contracts and invoices with third parties relating to repair or maintenance of bulkheads and other bank stabilization measures.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any contracts or invoices with third parties relating to repair or maintenance of bulkheads or other bank stabilization measures at the Facility.

**8. Outfalls into Newtown Creek. Identify and show on the Facility Plan all outfalls or discharge points from the Facility into Newtown Creek, including location of outfall, gallons per day and source of influent to Newtown Creek.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify a Facility Plan, or any documents or information relating to outfalls or discharge points from the Facility into Newtown Creek.

**9. Construction, Excavation and Land Filling Activities.**

**a. Describe all construction, excavation, and land fill activities undertaken by the Company at the Facility, including without limitation removal or installation of underground or above ground infrastructure.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any documents or information relating to construction, excavation, or land fill activities at the Facility.

**10. Facility Storm Water Drainage.**

- a. Describe how storm water was managed and drained at the Facility and depict on the Facility Plan all drainage flow and drainage infrastructure including all receiving facilities for storm water. Separately explain and depict point source drainage through pipes or other conveyances as well as sheet flow or surface water runoff.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any documents or information relating to storm water management and/or storm water or point source drainage at the Facility.

- b. Provide a copy of all drainage studies, reports or plans for all periods during the Company's ownership, operation or occupancy of the Facility.**

As described in the timeline set forth in Question 1, The Mosaic Company did not own, operate or occupy the Facility, and after conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any drainage studies, reports or plans related to the Facility.

- c. Identify on the Facility Plan elevations of the Facility relative to Newtown Creek. State whether elevations have changed during the period of the Company's ownership or operation of the Facility and describe all such changes.**

As described in the timeline set forth in Question 1, The Mosaic Company did not own or operate the Facility, and after conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify a Facility Plan or any documents or information related to elevations of the Facility relative to Newtown Creek.

- 11. Facility Process Water Management. Identify all waste water streams, other than sanitary waste water from rest rooms that is generated at the Facility, and identify the activities generating such waste water. Describe how process waste water is managed at the Facility and depict on the Facility Plan all process and waste water treatment and disposal facilities. If waste water facilities have changed over the years of the Company's ownership or operations, describe infrastructure changes and the dates such changes were placed into use. Identify and provide a copy of all permits for management or drainage of process waste water. Provide a copy of all data from sampling discharges of waste water, including all data from sampling any process or business waste stream currently or formerly generated at the Facility.**

**Provide a copy of all waste water management and drainage studies, reports or plans for all periods during the company's ownership or occupancy of the Facility.**

As described in the timeline set forth in Question 1, The Mosaic Company did not own or occupy the Facility, and after conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any documents or information related to waste water streams, or activities generating waste streams, at the Facility, including permits, sampling data, and or studies, reports or plans.

**12. Connections to New York City Sewer System.**

- a. State whether the Facility is or was connected to the New York City sewer during the Company's ownership or operation and the date that the Facility was first connected.**

As described in the timeline set forth in Question 1, The Mosaic Company did not own or operate the Facility, and after conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any documents or information relating to whether the Facility is or was connected to the New York City sewer.

- b. Identify the waste streams (sanitary, storm water, process water), if any, connected to the New York City sewer.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any documents or information relating to Facility waste streams which may have been connected to the New York City sewer.

- c. Identify all liquid waste streams not connected to the New York City sewer and describe disposal of such waste streams.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any documents or information relating to Facility liquid waste streams not connected to the New York City sewer, or to the disposal of such waste streams.

- d. State whether the Facility ever discharged any liquid wastes other than to the New York City sewer systems and, if so, provide details on such discharges.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any documents or information relating to discharges of liquid waste from the Facility.

- e. State whether the Facility participated in the New York City pretreatment program, and whether the company as ever been classified as a significant industrial user.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any documents or information relating to participation by the Facility in the New York City pretreatment program.

- f. Provide copies of all permits and applications for New York City Industrial Wastewater discharge permits.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any permits or applications for New York City Industrial Wastewater discharge permits related to the Facility.

- g. Provide copies of all notices of violations, correspondence, hearing transcripts and dispositions relating to the Company's use of the New York City sewer system.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any notices of violations, correspondence, hearing transcripts or dispositions relating to the Facility's use of the New York City sewer system.

- h. Provide copies of all surveys, reports or analyses delineating or characterizing the Company's liquid wastes.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any surveys, reports or analyses delineating or characterizing liquid wastes from the Facility.

- 13. Storage and Combustion of Coal. Did the operations at the Facility include the storage or combustion of coal during the time of ownership or operation by The American Agricultural Chemical Company? If your answer is yes, please respond to the following requests for information and identify the following for all periods of time related to the responses:**

- a. The purpose for which coal was present at the Facility.**
- b. The annual volume and type or types of coal (i.e. bituminous, anthracite, etc.) handled at the Facility.**
- c. The location and manner of coal storage at the Facility.**

**d. The coal storage, shipment and transfer locations on the Facility Plan.**

After conducting a thorough and diligent search of records in its control, The Mosaic Company has been unable to identify any documents or information relating to the storage or combustion of coal at the Facility.

**14. Bulk Storage Containers.**

- a. If the Facilit[y] has or had bulk storage of petroleum or chemicals, please show the location of each storage tank on the Facility Plan and describe each tank by volume, construction materials, spill prevention and containment systems and whether it is located above- or below- ground. Identify the materials currently and historically stored in each tank, including the types of petroleum products and additives handled at any time during the operation of the Facilit[y], and identify the purpose and use of such stored materials at the Facility. Provide a copy of the material safety data sheet ("MSDS") for each such material.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any documents or information relating to the current or historical bulk storage of petroleum or chemicals at Facility.

- b. Provide all documents related to permitting, inspection, maintenance, cathodic protection, product inventory levels, spills, cleaning, and closure of such tanks and correspondence between the Company and regulatory authorities concerning the storage tanks.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to locate any documents related to permitting, inspection, maintenance, cathodic protection, product inventory levels, spills, cleaning or closure of tanks or other storage containers at the Facility.

**15. Chemicals and Other Materials Used, Produced and Generated at the Facility.**

**Identify the compounds and chemicals received, stored and used at the Facility and the purpose that the compounds and chemical were acquired.**

- a. For receipt of materials, please identify all such materials, being specific in identifying [each such] item including brand name of any chemical or, if generic, the identity and description of such material, the purpose for which it was received and the process in which it was employed. Please provide copies of MSDSs for each such chemical. Identify the annual volume of receipt of such materials.**

- b. Identify all products produced at the Facility or shipped from the Facility and, if applicable, provide copies of MSDSs. Identify the approximate annual volume of production at the Facility by product line.**
- c. Describe in detail how and where the hazardous substances, hazardous wastes, and industrial wastes are or were generated at the Facility and how they were disposed. For each disposal location and method, state the nature and quantity [of] the material disposed on an annual basis.**

The Mosaic Company has located a New York Times article dated March 26, 1909, which indicates that the American Agricultural Chemical Company operated a warehouse at Railroad Avenue and Inwood Street in Blissville that contained bagged guano. (See Tab 21.) After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify any additional documents or information relating to the compounds and chemicals received, stored or used at the Facility.

- 16. Oil/Water Separators. Identify all oil/water separators at the Facility during the ownership or operation of the Facility by The American Agricultural Chemical Company, including dates of installation, dates of replacement or major modification, purpose of installation and source of influent, and location of discharge. Provide a copy of each permit and permit application, influent and effluent sampling results and copies of all submissions to federal, state, city or county environmental agencies or public health agencies relating to oil/water separators.**

After conducting a thorough and diligent search of records in its possession, The Mosaic Company has been unable to identify documents or information relating to oil/water separators at the Facility.

### **Section 3.0 Civil Litigation, Administrative Enforcement and Criminal Matters**

**17. Civil Litigation, Administrative Enforcement and Criminal Matters.**

- a. Has the Company been a party to any litigation or involved in any other claim where an allegation by or against the Company included environmental contamination of Newtown Creek or contamination of the Facility or any other upland property within one thousand five hundred feet from Newtown Creek (whether or not such other property was owned or operated by the Company and whether the claim was based on the Company's alleged ownership, operation, transporter status, or arranger relationship to the Facility or some other basis)? If yes, identify such litigation or claim, briefly describe the**

**allegation by or against the company, the status of the litigation or claim, and provide a copy of the pleadings and any significant agreement or court order.**

The Mosaic Company has not been a party to any litigation, or involved in any other claim where an allegation by or against The Mosaic Company included environmental contamination of the Facility or any other upland property within one thousand five hundred feet from Newtown Creek.

- b. Without limitation, include in your response to subparagraph a., above, any claims involving owners, operators, transporters or generators involved with the Facility after the time that The American Agricultural Chemical Company owned and operated the Facility, including claims relating to the Estate of Carl Capasso or to a company identified as Quanta Resources.**

N/A

- c. Has the Company been identified by EPA or by any New York State or New York City agency as a party responsible for environmental contamination at or from the Facility upland property within the Newtown Creek drainage basin whether or not such property was owned or operated by the company (whether the claim was based on the Company's alleged ownership, operation, transporter status or arranger relationship to the facility or some other basis)? If yes, state the company's understanding of the basis for such notice of responsibility and provide a copy of any correspondence, orders or agreements between the Company and the governmental agency.**

To knowledge of The Mosaic Company, The Mosaic Company has not been identified by EPA or by any New York State or New York City agency as a party responsible for environmental contamination at or from the Facility upland property within the Newtown Creek drainage basin.

- d. Has the Company or an employee, contractor or agent ever been accused of any criminal violation relating to illegal disposal or any other environmental matter in connection with any activity or operation at the Facility? If so, describe the disposition of such accusation and provide details on such accusation.**

To knowledge of The Mosaic Company, neither The Mosaic Company nor any employee, contractor or agent has been accused of any criminal violation relating to illegal disposal or any other environmental matter in connection with any activity or operation at the Facility.

**Section 4.0 Insurance and Indemnification**

**18. Insurance and Indemnification.**

- a. Provide a schedule of liability insurance policies that may provide coverage to the Company for environmental liability associated with Newtown Creek.**

The Mosaic Company is not aware of any insurance policies that may provide coverage to The Mosaic Company for environmental liability associated with Newtown Creek.

- b. Identify each entity that may have a duty to indemnify the Company for any potential environmental liability in connection with Newtown Creek, identify the circumstances giving rise to the indemnity, and provide a copy of any document that reflects a requirement to indemnify the Company.**

Please see responses to Questions 1 and 2a.

- c. Identify each entity that the Company has agreed to indemnify for any potential environmental liability in connection with Newtown Creek. Provide a copy of any document that reflects a requirement to indemnify by the Company.**

None.

**19. Financial Information. Provide a copy of the Company's public financial statements for its most recent fiscal year.**

A copy of The Mosaic Company's public consolidated financial statements for the most recent fiscal year (2013) is attached hereto at Tab 22. The Notes to the Consolidated Financial Statements are included in The Mosaic Company's Form 10-K filed with the United States Securities and Exchange Commission on July 17, 2013 and available online at [www.mosaicco.com](http://www.mosaicco.com) under Investors and Financial Results.

Regards,

THE MOSAIC COMPANY



Sarah J. Sorenson  
Environmental Counsel

Michael A. Mintzer  
November 4, 2013  
Page 20

cc: Caroline Kwan, U.S. Environmental Protection Agency Region II (pdf only)

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION  
NEWTOWN CREEK SUPERFUND SITE

State of Minnesota \_\_\_\_\_:

County of Hennepin \_\_\_\_\_:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that the Company is under a continuing obligation to supplement its response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my Company's response thereto should become known or available to the Company.

Sarah J. Sorensen  
NAME (print or type)

Environmental Counsel  
TITLE (print or type)

The Mosaic Company  
COMPANY NAME

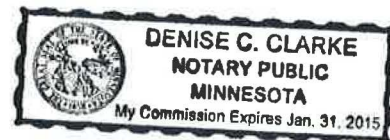
Sarah J. Sorensen  
SIGNATURE

Sworn to before me this 4<sup>th</sup> day of November, 2013

Denise C. Clarke  
Notary Public

My commission expires: \_\_\_\_\_

[STAMP OR SEAL]



## TAB 1

---

# AGREEMENT

BETWEEN

THE AMERICAN AGRICULTURAL CHEMICAL COMPANY

AND

CONTINENTAL OIL COMPANY

---

*Dated July 11, 1963*

---

**THIS AGREEMENT** dated July 11, 1963, between THE AMERICAN AGRICULTURAL CHEMICAL COMPANY, a Delaware corporation (hereinafter called AAC), and CONTINENTAL OIL COMPANY, a Delaware corporation (hereinafter called Continental),

**WITNESSETH :**

Continental desires to have a wholly-owned subsidiary (hereinafter called Continental's Subsidiary) acquire all of AAC's assets, business and goodwill in exchange for shares of Continental's \$2 Cumulative Convertible Preferred Stock without par value (hereinafter called Preferred Stock) and for the assumption by Continental's Subsidiary of all of AAC's liabilities and obligations, subject to the further provisions of this Agreement.

AAC desires that all of AAC's properties be exchanged solely for shares of Preferred Stock and for the assumption by Continental's Subsidiary of such liabilities and obligations of AAC as aforesaid, whereupon AAC will dissolve and completely liquidate and distribute to the holders of its Common Stock, *pro rata*, all its right, title and interest in and to the shares of Preferred Stock to be received by AAC as aforesaid, all as hereinafter more fully provided, and for the purpose of carrying out a tax-free reorganization within the meaning of the Internal Revenue Code of 1954.

Now, THEREFORE, in consideration of the premises and the respective agreements hereinafter set forth, AAC and Continental hereby agree as follows :

**1. Sale and Transfer of AAC's Assets and Certain Related Transactions.**

(a) *Sale and Transfer of Assets.* Subject to the terms and conditions of this Agreement, AAC will sell, convey, transfer and deliver to Continental's Subsidiary, and Continental will cause Continental's Subsidiary to acquire and accept, at the Closing, all of AAC's then existing assets and business as a going concern including, without limitation, the issued and outstanding capital stock owned by AAC in its subsidiary corporations (such corporations being listed in Section 5(b) and hereinafter called the Subsidiaries), AAC's 50% stock interest in North Carolina Phosphate Corporation, and all of AAC's goodwill and its right to the use of its name, but excluding such portion of the funds in the account referred to in subsection (e) of this Section 1 as is expended in accordance with the provisions of said subsection.

(b) *Consideration for Such Sale and Transfer.* At the Closing, subject to the terms and conditions of this Agreement, and in full consideration of the aforesaid sale, conveyance, transfer and delivery,

(i) Continental will deliver to AAC a certificate or certificates for 2,100,000 shares of Preferred Stock to be authorized, such shares to have the powers, preferences and rights and the qualifications, limitations or restrictions set forth in Exhibit A hereto, and such delivery to be made by Continental in such authorized full share denominations, and registered in such name or names, as AAC shall request in writing ; and

(ii) Continental's Subsidiary will deliver to AAC an undertaking whereby Continental's Subsidiary assumes and agrees to pay, perform and discharge all debts, liabilities, obligations, taxes and contracts of AAC of any kind, character or description, whether accrued, absolute, contingent or otherwise (and whether or not reflected or reserved against in AAC's balance sheets, books of account and records), all as the same shall exist at the Closing Date. The assumption by Continental's Subsidiary of the debts, liabilities and obligations of AAC shall expressly exclude the following: any tax imposed upon AAC by reason of the sale and transfer of its assets and business, or upon any stockholder of AAC by reason of his receipt of any shares of Preferred Stock pursuant to this Agreement ; any of the liabilities or expenses of AAC in entering into and carrying out its obligations under, or its dissolution and liquidation contemplated by, this Agreement ; and any obligations or liabilities incurred by AAC for actions taken by AAC subsequent to the Closing Date. The foregoing assumption by Continental's Subsidiary of the debts, liabilities and obligations of AAC is expressly for the benefit of AAC and its stockholders, directors, officers and employees, may be enforced by any of them, and shall survive the Closing Date. Continental agrees that unless it obtains from the holders of AAC's 3¾% Promissory Notes due 1964-71 a general release of AAC, its directors, officers or stockholders, from any and all liability with respect to the payment of and

due performance of the obligations under said Notes, Continental shall guarantee such payment and due performance by Continental's Subsidiary.

(c) *Instruments of Conveyance and Transfer, Etc.* AAC will deliver to Continental's Subsidiary at the Closing

(i) such deeds, bills of sale, endorsements, assignments, and other good and sufficient instruments of conveyance and transfer, in form satisfactory to Continental's counsel, Messrs. Dewey, Ballantine, Bushby, Palmer & Wood, as shall be effective to vest in Continental's Subsidiary all of AAC's title to and interest in the assets and business to be sold, conveyed, transferred and delivered hereunder, all as provided in this Agreement, and

(ii) all of AAC's contracts and commitments, books (except minute and stock books and any other records which AAC is, by law, required to retain in its possession), records and other data relating to its assets, business and operations, and, simultaneously with such delivery, will take such steps as may be requisite to put Continental's Subsidiary in actual possession and operating control of such assets and business and transfer to Continental's nominees any directors' qualifying shares of the Subsidiaries.

(d) *Further Assurances.* From time to time after the Closing and for a period of three years thereafter, at Continental's request and expense but without further consideration, AAC will

(i) execute and deliver such other instruments of conveyance and transfer and take such other action as Continental reasonably may require more effectively to vest in Continental's Subsidiary, and to put Continental's Subsidiary in possession of, any property to be sold hereunder, and,

(ii) in the case of contracts and rights which cannot be transferred effectively without the consent of third parties, use AAC's best efforts to assure to Continental's Subsidiary the benefits thereof.

(e) *AAC's Liquidation and Dissolution Expenses.* In order to provide for the payment of the liquidation and dissolution expenses of AAC and the expenses of AAC incurred in entering into and carrying out its obligations pursuant to this Agreement, on or prior to the Closing Date AAC will establish a special account in an amount not to exceed \$1,000,000 with a commercial bank acceptable to Continental in New York City. The persons authorized to draw upon this account shall be agents designated by the Board of Directors of AAC; withdrawals shall be made, however, only for purposes and in amounts previously approved in writing by a representative of Continental designated for that purpose, who shall be a former executive officer of AAC. As promptly as practicable after the Closing Date, and from time to time thereafter, AAC shall ascertain, in its reasonable discretion, whether any amount in the account will not be required for the purpose of paying the expenses and payments described above. When and as AAC shall have made such determination, it shall promptly transfer and assign such amount not so required to Continental.

2. **Closing.** The closing of the transactions provided for in subsections (a), (b) and (c) of Section 1 (herein called the Closing) shall take place at the office of The Corporation Trust Company, 15 Exchange Place, Jersey City, New Jersey, at 10 A. M., on September 11, 1963, *provided* that either Continental or AAC, by written notice or notices to the other from time to time, shall be entitled to postpone the Closing to a date not later than 45 days after such date. If due to causes beyond the control of either Continental or AAC, the Closing is not consummated on such first mentioned date or within 45 days thereafter, this Agreement, unless mutually extended in writing authorized by the Boards of Directors or authorized committees of Continental and AAC, shall terminate without liability of any kind on the part of either Continental or AAC. The date of the Closing is referred to in this Agreement as the Closing Date.

3. **Approval by AAC's Stockholders; Liquidation and Dissolution of AAC.** AAC will duly convene a meeting of its stockholders, to be held prior to the Closing Date, for the purpose of voting upon the sale and transfer contemplated hereby and the change of name and liquidation and dissolution of AAC hereinafter provided for. At the Closing AAC will take such action as may be required to change its name to one which does not include the name "American Agricultural Chemical" or any variant thereof so that Continental's Subsidiary may adopt such name if it wishes to do so. Promptly after the Closing AAC will take such action as may be required to liquidate and distribute to its stockholders, *pro rata*, all its right, title and interest in and to the shares of Preferred Stock received by AAC under this Agreement upon

the surrender by such stockholders for cancellation of AAC's Common Stock, and to dissolve and terminate its corporate existence.

4. **Authorization of Continental's New Stock.** Continental hereby agrees that it will duly convene a meeting of its stockholders, to be held prior to the Closing Date, for the purpose of voting upon a proposal to amend Article FOURTH of its Certificate of Incorporation to read as set forth in Exhibit A.

5. **Representations and Warranties by AAC.** AAC hereby represents and warrants as follows:

(a) *AAC's Organization, Capitalization, Etc.* AAC is a corporation duly organized, validly existing and in good standing under the laws of Delaware and has corporate power to carry on its business as it is now being conducted, and is duly qualified to do business and is in good standing in the States of Alabama, Arkansas, California, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia and Wisconsin. AAC's authorized capital stock consists of 2,500,000 shares of Common Stock without par value, of which 2,100,000 shares are validly issued and outstanding, fully paid and non-assessable. There are no existing options, calls or commitments of any character relating to AAC's authorized and unissued stock. The copies of AAC's Certificate of Incorporation and By-Laws which have been delivered to Continental are complete and correct. The consummation of the transactions contemplated by this Agreement will not result in any breach or violation of, or default under, any judgment, decree, mortgage, agreement, indenture or other instrument applicable to AAC or any of the Subsidiaries.

(b) *Subsidiaries' Organization, Capitalization, Etc.* AAC has three Subsidiaries and the following information with respect to them is correct:

<u>Name</u>	<u>Jurisdiction of Incorporation</u>	<u>Authorized Shares of Capital Stock</u>	<u>Outstanding Shares of Capital Stock</u>
The American Agricultural Chemical Company.....	Florida	250	25
The American Agricultural Chemical Company.....	New Jersey	4,000	4,000
Agricultural Chemicals Limited.....	Canada	2,500	2,500

In each case, the par value per share of stock is \$100. All of the outstanding shares of stock of the Subsidiaries are validly issued, fully paid and non-assessable, and, except for directors' qualifying shares, are owned by AAC, free and clear of all liens, charges and encumbrances. Each of the Subsidiaries is a corporation duly organized and existing and in good standing under the laws of the jurisdiction of its incorporation and has corporate power to carry on its business as it is now being conducted. The Subsidiary incorporated in Florida conducts business in that State; the Subsidiary incorporated in New Jersey was formerly qualified to do business in Cuba but is now inactive; the Subsidiary incorporated in Canada is qualified to do business in the Provinces of Ontario and Quebec. There are no existing options, calls or commitments of any character relating to any of the Subsidiaries' authorized or issued stock. The copies of the Subsidiaries' charters and by-laws which have been delivered to Continental are complete and correct.

(c) *Authority.* The execution, delivery and performance of this Agreement by AAC, including, without limitation, the sale, conveyance, transfer, and delivery contemplated hereby, have been duly and effectively authorized and consented to by AAC's Board of Directors, subject to approval by the holders of two-thirds of the outstanding Common Stock of AAC.

(d) *Financial Statements and Other Data.* AAC has delivered to Continental copies of the following financial statements, all of which are true and complete in all material respects, have been prepared in accordance with generally accepted accounting principles consistently followed (except as stated in the explanatory notes attached to such statements and, in the case of interim statements, except for year-end adjustments) throughout the periods covered by such statements, and present fairly the consolidated financial position of AAC and the Subsidiaries as at the dates, or the consolidated results of their operations for the periods, covered by such financial statements:

(b) if to Continental, to Mr. L. F. McCollum, President, Continental Oil Company, Suite 4618, 30 Rockefeller Plaza, New York, New York.

**15. Amendments and Termination.** Continental and AAC, by mutual consent of their respective Boards of Directors or authorized committees or officers, may amend or modify this Agreement, in such manner as may be agreed upon, by a written instrument executed by AAC and Continental; *provided* that no such amendment or modification shall change the number of shares of Continental to be issued pursuant to this Agreement or the conditions to AAC's obligations set forth in Section 10(f), and *provided further* that no such amendment or modification shall change the provisions with respect to the transfer of AAC's assets to, and assumption of its liabilities by, Continental's Subsidiary, and the distribution to AAC's stockholders of shares of Continental's stock upon the surrender by the stockholders of AAC, for cancellation, of all of AAC's outstanding Common Stock, in any manner which would materially and adversely affect the rights of AAC's stockholders. Continental and AAC, by mutual consent of their Boards of Directors, may terminate this Agreement at any time prior to the Closing and, unless otherwise specifically provided in such consent, any such termination shall be without liability of any kind on the part of either Continental or AAC.

**16. General.** The section and subsection headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns, *provided* that no stockholder of AAC shall have any liability as such hereunder to Continental, Continental's Subsidiary or any other person; nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies under or by reason of this Agreement. This Agreement shall be construed and enforced in accordance with the laws of New York.

IN WITNESS WHEREOF, the undersigned parties hereto have duly executed this Agreement in Newark, New Jersey the date first above written.

THE AMERICAN AGRICULTURAL CHEMICAL COMPANY

By C. M. POWELL  
*President*

[CORPORATE SEAL]

Attest:

HUGHES MAXO  
*Secretary*

CONTINENTAL OIL COMPANY

By L. F. MCCOLLUM  
*President*

[CORPORATE SEAL]

Attest:

P. J. DOMINIC  
*Secretary*

STATE OF NEW JERSEY }  
COUNTY OF ESSEX } ss.:

On the 11th day of July, 1963, before me personally came C. M. POWELL, to me known, who, being by me duly sworn, did depose and say: That he resides at 616 Embree Crescent, Westfield, New Jersey; that he is the President of THE AMERICAN AGRICULTURAL CHEMICAL COMPANY, one of the corporations described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

FRANCES M. RYAN  
*Notary Public*

[NOTARIAL SEAL]

FRANCES M. RYAN  
Notary Public of New Jersey  
My commission expires Feb. 19, 1968

STATE OF NEW JERSEY }  
COUNTY OF ESSEX } ss.:

On the 11th day of July, 1963, before me personally came L. F. McCOLLUM, to me known, who, being by me duly sworn, did depose and say: That he resides at 3620 Inverness Drive, Houston, Texas; that he is the President of CONTINENTAL OIL COMPANY, one of the corporations described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

FRANCES M. RYAN  
*Notary Public*

[NOTARIAL SEAL]

FRANCES M. RYAN  
Notary Public of New Jersey  
My commission expires Feb. 19, 1968

## TAB 2

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The Corp 21 co. of

Change of Name

35

CERTIFICATE OF AMENDMENT  
OF  
CERTIFICATE OF INCORPORATION  
OF  
FOS-KEM LIQUIDATION CORPORATION  
(a Delaware Corporation)

5984-22

RECEIVED & FILED

OCT 21 1963

10 A.M.

*Robert L. Dukes*  
SECRETARY OF STATE

CERTIFICATE OF AMENDMENT  
OF  
CERTIFICATE OF INCORPORATION

---

Fos-Kem Liquidation Corporation, a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, DOES HEREBY CERTIFY:

FIRST: That at a meeting of the Board of Directors of Fos-Kem Liquidation Corporation, a resolution was duly adopted setting forth a proposed amendment to the Certificate of Incorporation of said corporation, and declaring said amendment advisable. The resolution setting forth the proposed amendment is as follows:

RESOLVED, that the Board of Directors hereby proposes and declares it advisable that Article FIRST of the Certificate of Incorporation of this corporation be amended to read as follows:

"FIRST. The name of the corporation is AMERICAN AGRICULTURAL CHEMICAL COMPANY."

SECOND: That the amendment has been consented to by the holder of all the issued and outstanding stock of this corporation entitled to vote, by a written consent given in accordance with the provisions of Section 228 of

the General Corporation Law of the State of Delaware, and filed with this corporation.

THIRD: That said amendment was duly adopted in accordance with the applicable provisions of Sections 242 and 228 of the General Corporation Law of the State of Delaware.

FOURTH: That the capital of this corporation will not be reduced under or by reason of said amendment.

IN WITNESS WHEREOF, Fos-Kem Liquidation Corporation has caused its corporate seal to be hereunto affixed and this certificate to be signed by C. Gorham Phillips, its President, and Walter F. Diehl, Jr., its Secretary, this 15th day of October, 1963.

FOS-KEM LIQUIDATION CORPORATION

By C. Gorham Phillips  
President


By Walter F. Diehl, Jr.  
Secretary



STATE OF NEW YORK    )  
                              : ss.:  
COUNTY OF NEW YORK    )

BE IT REMEMBERED that on this 15th day of October, A.D. 1963, personally came before me, ROBERT JOSEPH ALEXANDER, a Notary Public in and for the County and State aforesaid, C. Gorham Phillips, President of Fos-Kem Liquidation Corporation, a corporation of the State of Delaware, the corporation described in and which executed the foregoing certificate, known to me personally to be such, and he, the said C. Gorham Phillips as such President, duly executed said certificate before me and acknowledged the said certificate to be his act and deed and the act and deed of said corporation; that the signatures of the said President and of the Secretary of said corporation to said foregoing certificate are in the handwriting of the said President and Secretary of said corporation respectively, and that the seal affixed to said certificate is the common or corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

  
Robert Joseph Alexander  
Notary Public

ROBERT JOSEPH ALEXANDER  
Notary Public - State of New York  
No. 30-0039988  
Qualified in Nassau County  
Com. to be filed with N.Y. Com. Clerk  
Term Expires March 30, 1965

## TAB 3

CERTIFICATE OF AMENDMENT  
OF  
THE AMERICAN AGRICULTURAL CHEMICAL COMPANY

387-8

RECEIVED & FILED

OCT 21 1963

10 A.M.

*Charles L. Dukes*

SECRETARY OF STATE

**CERTIFICATE OF AMENDMENT**  
**OF**  
**CERTIFICATE OF INCORPORATION**  
\* \* \* \* \*

The American Agricultural Chemical Company, a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware,

DOES HEREBY CERTIFY:

**FIRST:** That at a meeting of the Board of Directors of The American Agricultural Chemical Company resolutions were duly adopted setting forth a proposed amendment to the Certificate of Incorporation of said corporation, declaring said amendment to be advisable and calling a meeting of the stockholders of said corporation for consideration thereof. The resolution setting forth the proposed amendment is as follows:

**RESOLVED**, that the Board of Directors deems it advisable that, upon consummation of the sale of this Company's assets pursuant to the Agreement, Article FIRST of the Certificate of Incorporation be amended to read as follows:

**FIRST:** The name of this Corporation is Fos-Kem Liquidation Corporation.

**SECOND:** That thereafter, pursuant to resolution of its Board of Directors, a special meeting of the stockholders of said corporation was duly called and held, at which meeting the necessary number of shares as required by statute were voted in favor of the amendment.

**THIRD:** That said amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

**FOURTH:** That the sale of the assets of said corporation pursuant to the Agreement referred to in the resolution set forth in paragraph FIRST hereof has been duly consummated.

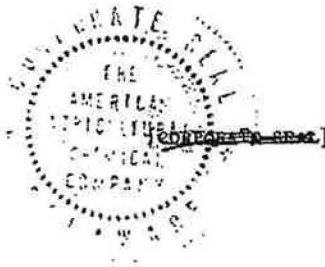
**FIFTH:** That the capital of said corporation will not be reduced under or by reason of said amendment.

IN WITNESS WHEREOF, The American Agricultural Chemical Company has caused its corporate seal to be hereunto affixed and this certificate to be signed by Charles M. Powell, its President, and Hughes Mayo, its Secretary, this 21<sup>st</sup> day of October, 1963.

THE AMERICAN AGRICULTURAL  
CHEMICAL COMPANY

By *Charles M. Powell*  
President

By *Hughes Mayo*  
Secretary



STATE OF NEW YORK }  
 COUNTY OF NEW YORK } ss.:

BE IT REMEMBERED that on this 21<sup>st</sup> day of October, A.D. 1963, personally came before me, a Notary Public in and for the County and State aforesaid, Charles M. Powell, President of The American Agricultural Chemical Company, a corporation of the State of Delaware, the corporation described in and which executed the foregoing certificate, known to me personally to be such, and he, the said Charles M. Powell as such President, duly executed said certificate before me and acknowledged the said certificate to be his act and deed and the act and deed of said corporation; that the signatures of the said President and of the Secretary of said corporation to said foregoing certificate are in the handwriting of the said President and Secretary of said corporation respectively, and that the seal affixed to said certificate is the common or corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

*Robert H. Williams*

Notary Public

ROBERT H. WILLIAMS  
 Notary Public, State of New York  
 No. 47-5225117. Quar. in Queens Co.  
 Cert. filed in New York County  
 Commission Expires March 30, 1964

[SEAL]



IN WITNESS WHEREOF, said Fos-Kem Liquidation Corporation has caused its corporate seal to be hereunto affixed and this certificate to be signed by Charles M. Powell, its President and Hughes Mayo, its Secretary, this 2<sup>nd</sup> day of October, 1963.

FOS-KEM LIQUIDATION CORPORATION

By *Charles M. Powell*  
President

By *Hughes Mayo*  
Secretary

[CORPORATE SEAL]

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

BE IT REMEMBERED that on this 2<sup>nd</sup> day of October, A.D. 1963, personally came before me, a Notary Public in and for the County and State aforesaid, C. M. Powell, President of Fos-Kem Liquidation Corporation, a corporation of the State of Delaware, the corporation described in and which executed the foregoing certificate, known to me personally to be such, and he, the said C. M. Powell, as such President, duly executed said certificate before me and acknowledged the said certificate to be his act and deed and the act and deed of said corporation; that the signatures of the said President and of the Secretary of said corporation to said foregoing certificate are in the handwriting of the said President of said corporation and the Secretary of said corporation respectively, and that the seal affixed to said certificate is the common or corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

*Robert M. Williams*

Notary Public

ROBERT M. WILLIAMS  
Notary Public, State of New York  
No. 41-9633141, Qual. in Queens Co.  
Cert. filed in New York County  
Commission Expires March 30, 1964

[SEAL]

## TAB 4

CERTIFICATE OF DISSOLUTION  
OF  
FOS-KEN LIQUIDATION CORPORATION

387-8

RECEIVED & FILED

OCT 21 1963

10:30 A.M.

*Charles L. Dubois*  
SECRETARY OF STATE

**CERTIFICATE OF DISSOLUTION**  
**OF**  
**FOS-KEM LIQUIDATION CORPORATION**

Fos-Kem Liquidation Corporation, a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware,

DOES HEREBY CERTIFY:

FIRST: That the Board of Directors of Fos-Kem Liquidation Corporation (then named The American Agricultural Chemical Company) at a meeting held on May 28, 1963, for the purpose of considering among other things the dissolution of the corporation, duly adopted the following resolutions by a majority of the whole Board:

RESOLVED, that the Board of Directors deems it advisable and most for the benefit of this Company that upon the consummation of the sale of this Company's assets pursuant to the Agreement, this Company be dissolved in accordance with the provisions of said Agreement and Section 275 of the General Corporation Law of the State of Delaware; and further

RESOLVED, that a special meeting of the stockholders of this Company be called to be held at the office of the Company in New York, N. Y. at 2:00 P.M., Eastern Daylight Time on August 28, 1963, to vote upon the proposed sale to Continental Oil Company of this Company's assets pursuant to the Agreement, and to consider and take action upon the resolutions adopted by this Board that, upon consummation of the sale of this Company's assets pursuant to the Agreement, Article FIRST of the Company's Certificate of Incorporation be amended to change the name of the Company to Fos-Kem Liquidation Corporation and that the Company be dissolved; and further

RESOLVED, that the proper officers of the Company be, and they hereby are, authorized on behalf of this Company to cause notice of the adoption of the resolution of this Board recommending the dissolution of this Company pursuant to the terms of the Agreement to be mailed to each stockholder of record on the record date and also to cause a like notice to be inserted at least

once in a newspaper published in the County of New Castle, State of Delaware, not later than ten days preceding the special meeting of stockholders.

That the date of the special meeting of stockholders specified in the second resolution set forth in Paragraph FIRST hereof was changed by said Board of Directors to September 10, 1963 by resolutions duly adopted at the meeting thereof held July 30, 1963.

SECOND: That notice of the adoption of the resolution and of a meeting of the stockholders having voting power, to be held at the office of the corporation to take action upon such resolution, was mailed to each stockholder of record having voting power on the record date for said meeting, and a like notice of the adoption of such resolution and of said meeting of stockholders was inserted in a newspaper published in the County of New Castle, State of Delaware, being the county wherein the corporation has its principal office in the State of Delaware, at least once, at least ten days next preceding the time appointed for the said meeting of stockholders.

That thereafter, pursuant to said resolutions of the Board of Directors and said notice, a special meeting of the stockholders of the corporation was held on September 10, 1963; at which meeting a vote of said stockholders, by ballot, in person or by proxy, was taken for and against the said dissolution, by two judges appointed for the purpose, and that two million, one hundred thousand (2,100,000) shares were at the time of the meeting issued and outstanding and entitled to vote on dissolution, that from the certificate of said judges it appears that the holders of one million, eight hundred thirty nine thousand, six hundred thirty two (1,839,632) shares voted in favor of dissolution and the holders of eight thousand, sixty nine (8,069) shares voted against dissolution, and that accordingly the persons or bodies corporate holding at least two-thirds of the issued and outstanding stock of the corporation entitled to vote had voted for the dissolution of the corporation.

THIRD: That the dissolution of said corporation was duly authorized in accordance with the provisions of Section 275 of the General Corporation Law of the State of Delaware.

FOURTH: That the names and residences of the directors and officers of Fos-Kem Liquidation Corporation are as follows:

## DIRECTORS

NAMES	RESIDENCES
Louis H. Carter	P. O. Box 338, East Orleans, Mass.
Arthur H. Dean	Mill River Rd. Oyster Bay, N. Y.
William H. Hildebrandt	15 Whippoorwill Way, Mountainside, N. J.
John A. Marsh	268 Watchung Fork, Westfield, N. J.
C. M. Powell	616 Embree Crescent, Westfield, N. J.
Robert G. Stone	214 Lowder Street, Dedham, Mass.
Robert Thomas	909 Frankland Road, Tampa, Florida
John C. Traphagen	Germondes Road, West Nyack, N. Y.
William J. Turbeville, Jr.	727 Tuxford Turn, Westfield, N. J.



## OFFICERS

NAMES	OFFICES	RESIDENCES
F. R. George	Vice President	154 Second St. Fanwood, N. J.
W. H. Hildebrandt	Comptroller	15 Whippoorwill Way, Mountainside, N. J.
Hughes Mayo	Secretary- Treasurer	842 Standish Ave., Westfield, N. J.
D. S. Parham	Vice President	4 Tanglewood Lane, Berkeley Hts., N. J.
C. M. Powell	President	616 Embree Crescent, Westfield, N. J.
B. R. Richey	Vice President	137 Second St., Fanwood, N. J.
W. J. Turbeville, Jr.	Vice President	727 Tuxford Turn, Westfield, N. J.
R. L. Waring, Jr.	Vice President	871 Shackamaxon Dr., Westfield, N. J.

IN WITNESS WHEREOF, said Fos-Kem Liquidation Corporation has caused its corporate seal to be hereunto affixed and this certificate to be signed by Charles M. Powell, its President and Hughes Mayo, its Secretary, this 2<sup>nd</sup> day of October, 1963.

FOS-KEM LIQUIDATION CORPORATION

By *Charles M. Powell*  
President

By *Hughes Mayo*  
Secretary

[CORPORATE SEAL]

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

BE IT REMEMBERED that on this 2<sup>nd</sup> day of October, A.D. 1963, personally came before me, a Notary Public in and for the County and State aforesaid, C. M. Powell, President of Fos-Kem Liquidation Corporation, a corporation of the State of Delaware, the corporation described in and which executed the foregoing certificate, known to me personally to be such, and he, the said C. M. Powell, as such President, duly executed said certificate before me and acknowledged the said certificate to be his act and deed and the act and deed of said corporation; that the signatures of the said President and of the Secretary of said corporation to said foregoing certificate are in the handwriting of the said President of said corporation and the Secretary of said corporation respectively, and that the seal affixed to said certificate is the common or corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

*Robert H. Williams*  
Notary Public

ROBERT H. WILLIAMS  
Notary Public, State of New York  
No. 41-9833441, Qual. in Queens Co.  
Cert. filed in New York County  
Commission Expires March 30, 1964

[SEAL]

## TAB 5

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CERTIFICATE OF OWNERSHIP AND MERGER

MERGING

AMERICAN AGRICULTURAL CHEMICAL COMPANY

INTO

CONTINENTAL OIL COMPANY

(Pursuant to Section 253 of the General  
Corporation Law of the State of Delaware)

Continental Oil Company, a corporation organized and  
existing under the laws of Delaware,

DOES HEREBY CERTIFY:

FIRST: That this corporation was incorporated on the  
8<sup>th</sup> day of October, 1920, pursuant to the General Corporation  
Law of the State of Delaware.

SECOND: That this corporation owns all of the out-  
standing shares of the stock of American Agricultural  
Chemical Company, a corporation incorporated on the 12<sup>th</sup>  
day of June, 1963, pursuant to the General Corporation Law  
of the State of Delaware.

THIRD: That this corporation, by the following  
resolutions of its Board of Directors, duly adopted at a  
meeting held on the 15<sup>th</sup> day of December, 1965, which  
resolutions have not been amended and are in full force  
and effect, determined to and did merge into itself said  
American Agricultural Chemical Company:

RESOLVED, That effective as of December 31, 1965,  
this Corporation merge and it does hereby merge into  
itself American Agricultural Chemical Company, a Delaware  
corporation, pursuant to Section 253 of the General Corpora-  
tion Law of the State of Delaware, and that as a condition  
of such merger this Corporation hereby assumes all of the  
obligations of American Agricultural Chemical Company; and  
it is

00120

- 2 -

FURTHER RESOLVED, That the Plan of Liquidation of American Agricultural Chemical Company dated December 6, 1965, a copy of which Plan was submitted to this meeting and ordered lodged in the secretary's files pertaining thereto, be, and it hereby is, approved and adopted; and it is

FURTHER RESOLVED, That the proper officers of this Corporation be, and they hereby are, directed to make and execute, in the name and on behalf of this Corporation, a Certificate of Ownership and Merger setting forth a copy of the foregoing resolutions to merge American Agricultural Chemical Company and assume its obligations (and the date of adoption thereof), including a copy of the aforesaid Plan of Liquidation, and to file the same on or before December 31, 1965 in the office of the Secretary of State of the State of Delaware, to record a certified copy thereof in the office of the Recorder of Deeds of New Castle County, Delaware, and to do all acts whatsoever, whether within or without the State of Delaware, which may be in anywise necessary or proper to effect said merger

FOURTH: That attached hereto as Exhibit A is a copy of the "Plan of Liquidation" referred to in the foregoing resolutions, which Plan of Liquidation has not been amended and is in full force and effect.

IN WITNESS WHEREOF, said Continental Oil Company has caused its corporate seal to be affixed and this certificate to be signed by W. J. Turbeville, Jr., its Vice President and P. J. Dominic, its Secretary this 22nd day of December, A.D. 1965.

CONTINENTAL OIL COMPANY

By W. J. Turbeville, Jr.  
Vice President

By P. J. Dominic  
Secretary

00121



STATE OF NEW YORK       )  
                              ) ss:  
COUNTY OF NEW YORK     )

BE IT REMEMBERED that on this 22nd day of December, A.D. 1965, personally came before me, Joseph P. Rutledge, Jr., a Notary Public in and for the County and State aforesaid, W. J. Turbeville, Jr., Vice President of Continental Oil Company, a corporation of the State of Delaware, the corporation described in and which executed the foregoing certificate, known to me personally to be such, and he, the said W. J. Turbeville, Jr., as such Vice President, duly executed said certificate before me and acknowledged the said certificate to be his act and deed and the act and deed of said corporation; that the signatures of the said Vice President and of the Secretary of said corporation to said foregoing certificate are in the handwriting of the said Vice President and Secretary of said corporation respectively, and that the seal affixed to said certificate is the common or corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.



*Joseph P. Rutledge, Jr.*  
Notary Public  
JOSEPH P. RUTLEDGE, JR.  
Notary Public, State of New York  
No. 31-3410575  
Qualified in New York County  
Commission Expires March 30, 1967

00122

PLAN OF LIQUIDATION  
ADOPTED ON DECEMBER 6, 1965 BY  
BOARD OF DIRECTORS OF  
AMERICAN AGRICULTURAL CHEMICAL COMPANY

American Agricultural Chemical Company, a Delaware corporation ("A.A.C."), all of whose issued and outstanding shares of capital stock are owned by Continental Oil Company, a Delaware corporation ("Continental"), shall be merged into Continental upon the following terms and conditions:

(a) The corporate existence of Continental, the surviving corporation, shall continue under the laws of the State of Delaware.

(b) As a condition of such merger, all the property, real and personal, causes of action and every other asset of A.A.C. shall be vested in Continental, and Continental shall assume all of the obligations of A.A.C.

(c) Upon the effective date of the merger, all outstanding shares of the capital stock of A.A.C. shall be completely canceled.

(d) This Plan of Liquidation shall be submitted for adoption by the Board of Directors of Continental and, if adopted, the Board will adopt a resolution or resolutions to merge A.A.C. into Continental and to assume all of the obligations of A.A.C., all in accordance with the provisions of Section 253 of the General Corporation Law of the State of Delaware. This Plan of Liquidation shall also be submitted for adoption by the Board of Directors of A.A.C.

(e) Subject to the adoption of this Plan of Liquidation by the Boards of Directors of Continental and A.A.C. and subject to the adoption by the Board of Directors of Continental of the above-mentioned resolution or resolutions, and not later than December 31, 1965, a Certificate of Ownership and Merger merging A.A.C. into Continental shall be filed in the office of the Secretary of State of the State of Delaware and a certified copy thereof shall be recorded in the office of the Recorder of Deeds, New Castle County, Delaware in accordance with the laws of said state. Thereupon the merger shall be effective as of December 31, 1965.

## TAB 6

CERTIFICATE OF INCORPORATION

OF

AGRICO CHEMICAL COMPANY

\* \* \* \* \*

FIRST. The name of the corporation is

AGRICO CHEMICAL COMPANY

SECOND. Its principal office in the State of Delaware is located at No. 100 West Tenth Street, in the City of Wilmington, County of New Castle. The name and address of its resident agent is The Corporation Trust Company, No. 100 West Tenth Street, Wilmington 99, Delaware.

THIRD. The nature of the business, or objects or purposes to be transacted, promoted or carried on are:

(1) To produce, manufacture, refine, extract, mine, treat and otherwise process, to purchase or otherwise acquire, to store, transport or otherwise handle, and to deal in, distribute, market, sell or otherwise dispose of or turn to account, any or all of the substances hereinafter mentioned and any or all ingredients or compositions thereof, of any state, form, nature, mixture or description, and any and all **derivatives**, products or by-products of any or all of said substances, to wit:

(a) organic and inorganic chemicals and fertilizers;

(b) oil, gas and other hydrocarbons;

(c) metallic and non-metallic minerals.

(2) To construct, lease, purchase or otherwise acquire, to hold, own, maintain, improve, operate or otherwise use, and to let, mortgage, sell, convey or otherwise dispose of or turn to account, any and all kinds of real and personal property and any and all rights and interests therein, useful or convenient in the conduct of the Corporation's business, including, without limiting the generality of the foregoing:

(a) plants, mills, factories, refineries, laboratories, warehouses, storage tanks, offices, stores, residences and other buildings and structures;

(b) roadways, railways, bridges, tunnels, airports, reservoirs, dams, waterways, wharves, piers, docks, levees and other land or water installations and facilities;

(c) oil wells, gas wells, water wells, mines and quarries;

(d) pipelines and appurtenant pumps, pumping stations and electrical powerlines;

(e) drainage, irrigation, sewage, heat, light, power and communication systems;

(f) agricultural equipment; railroad, rolling stock, automotive and other vehicles; tankers, boats, barges and other vessels; airplanes and other aircraft;

(g) machinery, tools, implements, appliances, equipment and apparatus of every kind and description.

(3) To contract for, lease, purchase and otherwise acquire, to hold, own, maintain, improve, develop, work, explore, exploit, operate, deal in and otherwise use, enjoy and turn to account, and to let, mortgage, exchange, sell, grant, transfer, convey and otherwise dispose of, any and all kinds of lands and real estate and any and all rights,

privileges, options, leases, concessions, licenses, claims, patents, grants, franchises, easements, royalties, tenements, estates, hereditaments, and interests in and to property, real or personal, tangible or intangible, of every kind and description.

(4) To manufacture, process, purchase, own, mine, handle, sell, import, export and generally to trade and deal in and with substances, raw materials, goods, wares and merchandise of every kind, nature and description, and to engage or participate, as principal or agent, and either alone or jointly with others, in any mercantile, industrial or trading business of any kind or character whatsoever.

(5) To conduct, carry on and engage in any experimental or research work in agricultural, chemical, engineering and any other scientific or technical fields, and to render to any person, firm, association or corporation services of an engineering, scientific, technical or business nature.

(6) To acquire all or any part of the business, good will, rights, assets and property of any person, firm, association or corporation, to pay for the same in whole or in part in cash or with the stock, bonds or debentures of the Corporation or otherwise, and to assume all or any part of the obligations and liabilities of any such person, firm, association or corporation.

(7) To apply for, register, obtain, take leases, licenses and immunities in respect of, purchase or otherwise acquire, and to hold, own, introduce, use, enjoy, develop, manufacture and sell under, grant leases, licenses and immunities in respect of, mortgage, pledge, sell, assign, transfer or otherwise dispose of or turn to account, and in any manner deal with:

(a) inventions, devices, designs, formulae, processes and any improvements and modifications thereof;

(b) letters patent, patent rights, copyrights, trade-names, trade-marks and other distinctive words and symbols indicating origin or ownership granted by or recognized under the laws of the United States of America or of any state or subdivision thereof or of any foreign country or subdivision thereof;

(c) any and all rights, privileges, licenses grants and concessions connected with or appertaining to the foregoing.

(8) To acquire by purchase, subscriptions or otherwise, to receive, own and hold for investment or otherwise, to mortgage, pledge, deposit, exchange, sell, assign, transfer or otherwise dispose of, and generally to deal in or with, any and all of the following (hereinafter sometimes referred to collectively as "securities") to wit: all kinds of shares, stocks, voting trust certificates, trust certificates, scrip, warrants, rights, bonds, mortgages, debentures, trust receipts, notes and other choses in action, obligations and evidences of indebtedness of any corporation, joint-stock company, trust, association, partnership, syndicate, person, or governmental or public agency or authority, domestic or foreign, and evidences of any interest therein or with respect thereto; and while the owner or holder of any such securities, to exercise all the rights, powers and privileges of ownership or interest in respect thereof, including the right to vote and to give consents, and to do any and all acts or things deemed by the Corporation to be necessary or advisable for the preservation, protection, improvement or enhancement of the value of such securities.

(9) To purchase, or otherwise acquire, hold, sell, pledge, transfer or otherwise dispose of, and to reissue or cancel, shares of the Corporation's own capital stock and any other securities or obligations of the Corporation in

the manner and to the extent now or hereafter permitted by the laws of the State of Delaware; provided that shares of its own capital stock belonging to the Corporation shall not be voted upon directly or indirectly.

(10) To enter into, make and perform contracts of every kind and description with any person, firm, association, corporation, municipality, county, state, body politic or government or colony or dependency thereof.

(11) To borrow or raise money for any of the purposes of the Corporation; from time to time, without limit as to amount, to draw, make, accept, endorse, execute and issue promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other negotiable and non-negotiable instruments and evidences of indebtedness, and to secure the payment thereof and of the interest thereon by mortgage upon, or pledge, conveyance or assignment in trust of, the whole or any part of the assets and property of the Corporation, whether at the time owned or thereafter acquired, and to sell, pledge or otherwise dispose of such securities or other obligations of the Corporation for its corporate purposes.

(12) To lend money to others, with or without collateral security; provided that no loans shall be made by the Corporation to its officers and directors, and no loans shall be made by the Corporation secured by shares of its own capital stock.

(13) To guarantee the payment of dividends on any stock, or the principal or interest or both of any bonds or other securities or obligations, and the performance of any contracts.

(14) To establish and maintain one or more offices, to conduct and carry on its business or operations or any

part thereof, and to exercise any or all of its corporate rights, privileges and powers, in any or all of the states, districts, territories, colonies or dependencies of the United States of America and in any and all foreign countries and the territories, colonies or dependencies thereof.

(15) To conduct, carry on or engage in any other businesses, operations or activities in connection with or incidental to those above mentioned, and to do everything necessary, proper, advisable or convenient for the attainment of any of the objects, the accomplishment of any of the purposes and the exercise of any of the powers hereinabove mentioned.

The objects and purposes specified in the foregoing clauses shall be construed as powers as well as objects and purposes, and the matters referred to in each clause shall, unless herein otherwise expressly provided, be in nowise limited by reference to or inference from the terms of any other clause, but shall be regarded as independent objects, purposes and powers. The enumeration herein of objects, purposes and powers shall not be deemed to exclude by inference or otherwise any of the rights, privileges, powers, objects or purposes which this Corporation is or may be entitled to exercise under laws of the State of Delaware now or hereafter in effect or implied by reasonable construction of said laws.

FOURTH. The total number of shares of stock which the corporation shall have authority to issue is two hundred (200); all of such shares shall be without par value.

FIFTH. The minimum amount of capital with which the corporation will commence business is One Thousand Dollars (\$1,000.00).

SIXTH. The names and places of residence of the incorporators are as follows:

<u>NAMES</u>	<u>RESIDENCES</u>
S. H. Livesay	Wilmington, Delaware
F. J. Obara, Jr.	Wilmington, Delaware
A. D. Grier	Wilmington, Delaware

SEVENTH. The corporation is to have perpetual existence.

EIGHTH. The private property of the stockholders shall not be subject to the payment of corporate debts to any extent whatever.

NINTH. In furtherance and not in limitation of the powers conferred by statute, the board of directors is expressly authorized:

To make, alter or repeal the by-laws of the corporation.

To authorize and cause to be executed mortgages and liens upon the real and personal property of the corporation.

To set apart out of any of the funds of the corporation available for dividends a reserve or reserves for any proper purpose and to abolish any such reserve in the manner in which it was created.

By resolution passed by a majority of the whole board, to designate one or more committees, each committee to consist of two or more of the directors of the corporation, which, to the extent provided in the resolution or in

the by-laws of the corporation, shall have and may exercise the powers of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it. Such committee or committees shall have such name or names as may be stated in the by-laws of the corporation or as may be determined from time to time by resolution adopted by the board of directors.

When and as authorized by the affirmative vote of the holders of a majority of the stock issued and outstanding having voting power given at a stockholders' meeting duly called for that purpose, or when authorized by the written consent of the holders of a majority of the voting stock issued and outstanding, to sell, lease or exchange all of the property and assets of the corporation, including its good will and its corporate franchises, upon such terms and conditions and for such consideration, which may be in whole or in part shares of stock in, and/or other securities of, any other corporation or corporations, as its board of directors shall deem expedient and for the best interests of the corporation.

TENTH. Meetings of stockholders may be held outside the State of Delaware, if the by-laws so provide. The books of the corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the board of directors or in the by-laws of the corporation. Elections of directors need not be by ballot unless the by-laws of the corporation shall so provide.

**ELEVENTH.** The corporation reserves the right to amend, alter, change or repeal any provision contained in this certificate of incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

**WE, THE UNDERSIGNED,** being each of the incorporators hereinbefore named, for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, do make this certificate, hereby declaring and certifying that the facts herein stated are true, and accordingly have hereunto set our hands and seals this day of January, A. D. 1966.

S. H. LIVESAY (SEAL)

F. J. OBARA, JR. (SEAL)

A. D. GRIER (SEAL)

STATE OF DELAWARE  
COUNTY OF NEW CASTLE

} SS:

BE IT REMEMBERED that on this                      day of  
January, A. D. 1966, personally came before me, a Notary  
Public for the State of Delaware, S. H. Livesay,  
F. J. Obara, Jr. and A. D. Grier all of the parties to the  
foregoing certificate of incorporation, known to me per-  
sonally to be such, and severally acknowledged the said  
certificate to be the act and deed of the signers respective-  
ly and that the facts therein stated are truly set forth.

GIVEN under my hand and seal of office the day  
and year aforesaid.

A. DANA ATWELL Notary Public

A. DANA ATWELL  
NOTARY PUBLIC  
APPOINTED OCT. 29, 1965  
STATE OF DELAWARE  
TERM TWO YEARS

# State of Delaware



## Office of Secretary of State.

*I, Elisha C. Dukes, Secretary of State of the State of Delaware,*  
*do hereby certify that the above and foregoing is a true and correct copy of*  
Certificate of Incorporation of the "AGRICO CHEMICAL COMPANY", as  
received and filed in this office the twenty-seventh day of January,  
A.D. 1966, at 10 o'clock A.M.

*In Testimony Whereof, I have hereunto set my hand*  
*and official seal at Dover this* fourth *day*  
*of* February *in the year of our Lord*  
*one thousand nine hundred and* sixty-six.

*Elisha C. Dukes*

Secretary of State

*A. L. House*

Asst Secretary of State

TAB 7

RETURN OF CORPORATION DOING BUSINESS IN OKLAHOMA

For the Year Beginning July 1, 19 ....., and Ending June 30, 19 .....

SPACE FOR RECEIVING STAMP	<b>ANNUAL FRANCHISE TAX RETURN</b>	Space for Oklahoma Tax Commission Office Use
	To be completed and filed with the OKLAHOMA TAX COMMISSION, as a basis for the Franchise Tax imposed by Title 68, Oklahoma Statutes, 1963 Supplement, Sections 12-1201 to 12-1214 inclusive by every corporation, association and organization, as defined in the Code (unless specifically exempted), doing business in Oklahoma, for the fiscal year beginning July 1st. This return must be filed between July 1st and August 31st, annually, to avoid penalty. <b>THE ANNUAL FRANCHISE TAX MUST BE PAID IN ADVANCE</b> , before a license can be issued.	Audited by .....
	The TAX is payable to, and the license will be issued by, the OKLAHOMA TAX COMMISSION, Oklahoma City, Oklahoma.	License No. ....
		Date .....

1. Name of reporting corporation	AGRICO CHEMICAL COMPANY		
2. Address of operating office	1222 Riverside Drive, Memphis, Tennessee		
3. Where incorporated	Delaware	Date of incorporation	January 27th, 1966
4. Date of domestication in Oklahoma	now qualifying		
5. If not a corporation, show the character, and date, of instrument under which organized, and county in which filed	not applicable		
6. Name and address of managing officer	D.H. BRADFORD, JR., 1210 Sarrow Rd., Whitehaven, Tenn.		
7. Name and address of Oklahoma registered agent	The Corporation Company, 735 First National Building, Oklahoma City, Oklahoma		
8. Name of parent company, if any	CONTINENTAL OIL COMPANY		
9. Names of subsidiaries, if any	none		
10. Names of affiliated companies, if any	none		
11. Nature of business in detail	(SEE ATTACHED RIDER)		
12. Number of counties in which property is located in Oklahoma (See Schedule 7)	none		
13. Amount of authorized capital stock or shares:	No		
(a) Common	200	shares/par value	XXXXXXXXXX
(b) First Preferred	none	shares, par value of each share	\$
(c) Second Preferred	none	shares, par value of each share	\$
(d)	none	shares, par value of each share	\$
14. Total capital stock or shares issued and outstanding on June 30, 19	No		
(a) Common	10	shares/par value	XXXXXXXXXX
(b) First Preferred		shares, par value of each share	\$
(c) Second Preferred		shares, par value of each share	\$
(d)		shares, par value of each share	\$

<b>COMPUTATION OF THE FRANCHISE TAX MINIMUM TAX \$10.00</b>		By the Taxpayer	By Okla. Tax Com.
Value of capital employed in Oklahoma as shown at Line 7, Schedule 1, or Line 19, Schedule 2	\$		\$
License Fee at rate of \$1.25 per \$1000. (a fractional \$1000 is \$1.25 fee) of the value of capital as shown above	\$		\$
Penalty for Delinquency, 10 per cent of Fee (See Pars. 27 & 28, Page 4)	\$		\$
Total Fee and Penalty remitted herewith	\$		\$

<b>SCHEDULE 1—DETERMINING THE VALUE OF THE CAPITAL OF CORPORATIONS WHOSE PROPERTY OWNED AND BUSINESS DONE IS WHOLLY WITHIN OKLAHOMA</b>		
1. Total assets as shown by Line 48, Column B, Schedule 3		
2. Less: Items not actual assets (from Line 50, Schedule 3)		
3. Value of assets (Line 1, minus Line 2)		
4. Liabilities as shown by Line 65-a, Column C, Schedule 3		
5. Less: Items not allowable as deductions, Line 65		
6. Net allowable liabilities (Line 4, minus Line 5)		
7. Value of capital subject to license fee (Line 3, minus Line 6)		

<b>SCHEDULE 2—DETERMINING THE VALUE OF THE CAPITAL OF CORPORATIONS WHOSE PROPERTY OWNED AND BUSINESS DONE IS PARTLY WITHIN AND PARTLY WITHOUT OKLAHOMA</b>		
1. Total assets as shown by Line 48, Column A, Schedule 3		
2. Less: Items not actual assets (from Line 50, Column A, Schedule 3)		
3. Value of assets (Line 1, minus Line 2)		
4. Total amount of business done by the corporation (See Page 2)		
5. Total value of property owned and business done (Total Lines 3 and 4)		
6. Total Oklahoma assets as shown by Line 48, Column B, Schedule 3		
7. Less: Items not actual assets (from Line 50, Column B)		
8. Value of Oklahoma assets (Line 6, minus Line 7)		
9. Total amount of business originating in Oklahoma (See Page 2)		
10. Less: Amount of business purely interstate (See Page 2)		
12. Net Oklahoma business (Line 9, minus Line 10)		
13. Total Oklahoma Property owned and business done (Total Lines 8 and 12)		
14. Percentage of Oklahoma property owned and business done to total property owned and business done (Line 13, divided by Line 5)		
15. Total liabilities as shown by Line 65-a, Column C, Schedule 3		
16. Less: Items not allowable as deductions, Line 65		
17. Net allowable liabilities (Line 15, minus Line 16)		
18. Value of capital subject to apportionment (Line 3, minus Line 17)		
19. Value of capital employed in Oklahoma (Line 18, multiplied by percentage shown in Line 14)		



SCHEDULE 4—STOCKS AND OTHER SECURITIES

NAME OF STOCK OR SECURITIES	NUMBER SHARES	COST OR BOOK VALUE			

SCHEDULE 5—STOCKS IN SUBSIDIARIES

NAME OF SUBSIDIARY	Number Shares Owned	Percentage To Total Stock	COST OR BOOK VALUE			

SCHEDULE 6—AFFILIATED COMPANIES

NAME OF AFFILIATED COMPANY	Number Shares Owned	COST OR BOOK VALUE			

SCHEDULE 7—OKLAHOMA COUNTIES IN WHICH PROPERTY IS LOCATED


If Any of the above spaces are insufficient, attach separate schedules.

THE OFFICERS AND DIRECTORS OF THE REPORTING CORPORATION

On June 30, 19\_\_\_\_\_, Were as Follows:

OFFICERS AND DIRECTORS	POSTOFFICE ADDRESS	TERM EXPIRES
President <b>D. H. BRADFORD, JR.</b>	1210 <del>Barrow</del> Rd., Whitehaven, Tenn.	
Vice-President <b>D. S. PARHAM</b>	4 Tanglewood Lane, Berkeley Hgts, N.J.	
Secretary <b>HUGHES MAYO</b>	842 Standish Ave., Westfield, N.J.	
Treasurer <b>HUGHES MAYO</b>	842 Standish Ave., Westfield, N.J.	
Director		
Director <b>D. H. BRADFORD, JR.</b>	1210 <del>Barrow</del> Rd., Whitehaven, Tenn.	
Director <b>D. S. PARHAM</b>	4 Tanglewood Lane, Berkeley Hgts., N.J.	
Director <b>HUGHES MAYO</b>	842 Standish Ave., Westfield, N.J.	
Director <b>W. J. TURBEVILLE, JR.</b>	727 Tuxford Turn, Westfield, N.J.	
Director		
Director		
Director		
Director		

VERIFICATION

State of **NEW YORK** }  
County of **NEW YORK** } ss.

I, the undersigned officer of the above named corporation hereby declare under the penalties of perjury, that the above franchise tax return (including any accompanying schedules and statements) has been examined by me, and to the best of my knowledge and belief is a true, correct, and complete return, made in good faith, for the taxable year stated, pursuant to existing franchise tax law, and regulations issued thereunder.

Date **February 11, 1966**

  
Signature **D. S. Parham**

This return was prepared by: **Vice President**  
Title—President, Secretary or managing officer or agent.

## INSTRUCTIONS

1. Every corporation, organization or association, including common law or statutory trusts, organized for profit, except national and state banks, trust companies, building and loan associations, insurance companies, surety and bond companies, is subject to the Franchise Tax Law. Section 1201

2. In order that any corporation, or other organization, may be exempted it must be clearly shown that no distribution of earnings inures to, or is made to, the stockholders or other individuals of whatsoever designation. (Sec. 1206)

3. Every corporation or other organization to which a license is issued shall render a true and correct balance sheet as shown by its books of account, as at the close of its last preceding income tax accounting year. Section 1210 (a)

4. The amounts as shown by the books of account shall be the measure of value of the assets and liabilities, except when apparently erroneous, and except where the items on the books of account do not reflect sufficient information to truly reflect the amount of capital invested and employed in the business.

5. When stock, or shares, have been issued against assets that have been appreciated through arbitrary valuation or appraisal, such excess values must be segregated and clearly explained in order to receive consideration.

6. When depreciation and depletion have been set up for income tax purposes, and such amounts appear to be excessive, the excess may be disallowed.

7. Stock or other evidence of ownership in subsidiary organizations is to be shown by the reporting taxpayer at its cost as carried on the books. Section 1209 (d)

8. United States, municipal, commercial and other bonds are to be included in the assets report. Section 1209 (d)

9. Cash, notes, accounts receivable and inventories are to be reported at book value. Section 1209 (d)

10. Life insurance, where the reporting taxpayer is beneficiary, is to be shown at cash surrender value.

11. Patents, trade marks, copyrights, etc., are to be shown at cost. Depreciation on cost is allowable, to be prorated over the life of such assets.

12. Franchises and goodwill are to be included as assets to the extent of their cost, on the basis of going concern value. In the case of a definite term franchise the cost thereof may be amortized over the term for which acquired. But if such amounts are merely book charges representing the excess of liabilities and capital stock over the actual assets, they may be deducted, upon proper showing, in computing the amount of tax due.

13. Prepaid expenses are to be included as an asset to the extent of the actual cash value of such charges.

14. Reserves for taxes are allowable to the extent of such taxes as are unpaid.

15. Deferred credits will not be allowed unless they can be shown to be actual liabilities.

16. Contingent assets or liabilities should be eliminated, unless fully explained and the condition under which they may become actual definitely set forth.

17. Inter-company balances, as between parent and subsidiary are to be eliminated from the calculations necessary to determine the amount of Franchise Tax due from either, or both, the parent and subsidiary. (Par. (b), Sec. 1209)

18. (a) The value of all intangibles that have acquired a "business situs" in Oklahoma shall be included as capital in measuring the tax. Section 1209 (d)

(b) Where the business or commercial domicile of an entity covered by the Franchise Tax Code is in Oklahoma the value of its intangibles shall be apportioned wholly to Oklahoma unless a business situs for any such intangibles has been elsewhere established. (Par. (d), Sec. 1209)

19. (a) The term "doing business" means and includes every act, power, or privilege exercised or enjoyed in this State as an incident to or by virtue of the powers and privileges acquired by the nature of all organizations falling within the purview of the Franchise Tax Code. Sec. 1202

(b) The term "business done" means and includes the engaging in any activity or the performing of any act or acts in this State that is adjudged to constitute the doing or transacting of business here by the adjudicated cases. Section 1209 (c)

20. Without excluding other activities which may not constitute doing business in Oklahoma, and without including any activities in Oklahoma not hereinafter set forth which may constitute doing business in Oklahoma, a foreign corporation shall not be considered to be doing business in Oklahoma, for the purposes of the Franchise Tax Code, by reason of carrying on any one or more of the following activities:

(a) The acquisition of existing real estate loans on property situated in Oklahoma where such acquisition was consummated outside of Oklahoma;

(b) The ownership, renewal, extension, transfer and foreclosure of said loans, and the acceptance of substitute or additional obligors thereon;

(c) The collection and servicing of said loans through an Oklahoma concern engaged in the business of servicing real estate loans for investors;

(d) The taking of owner's or sheriff's deeds to the security on said loans for the sole purpose of transferring title to either Federal Housing Administration or Veterans Administration as the insurer or guarantor.

21. The Franchise Tax for organizations doing business both within and without Oklahoma, shall be computed upon the proportion which property owned, or property owned and business done, within Oklahoma, bears to total property owned, or total property owned and total business done. (Par. (c), Sec. 1209)

22. Property owned is the book value of the assets (less only such items as are clearly only book account without value). For the purpose of determining apportionment as between Oklahoma and elsewhere, liabilities are not to be deducted from gross assets.

23. Tangibles and intangibles are to be shown at the book figures, as recorded in the books of account; therefore, it is necessary that any adjustments as to value must have been properly recorded in the books prior to the rendition of Franchise Tax Return.

24. Treasury stock is to be shown in assets at the cost for which it was purchased, or par value, whichever is greater, unless it is definitely shown that such stock was purchased for the specific purpose of retirement, and that it will be retired before the next tax-paying date, and is not held in the treasury for resale.

25. The return made by any organization doing business in Oklahoma under the requirements of the Franchise Tax Law, shall not be conclusive with respect to the matters therein stated, and the Commission, if it finds the return incomplete, incorrect, or otherwise objectionable, shall, upon giving ten days' notice in writing to any such organization, proceed to determine the true amount of capital of the organization invested or employed in this State as reflected by the books of such organization.

26. The term "Capital" includes outstanding capital stock, surplus and undivided profits, plus the amount of any outstanding evidences of indebtedness maturing and payable more than three years after issuance. (Par. A-1, Sec. 1209)

27. If the return accompanied by proper remittance is not received in the office of the Commission within the time prescribed by the Franchise Tax Law (July 1st to August 31st, Incl.) a penalty of ten percent (10%) of the tax will be assessed. (Par. (a), Sec. 1212)

28. If the Charter or other instrument is suspended as provided in Paragraph 1, Section 13, of the Franchise Tax Law, a reinstatement fee of Five Dollars (\$5.00) will be assessed as is provided in Paragraph f, Section 1212.

29. The Commission reserves the right to revise, amend or supplement the foregoing instructions from time to time as conditions and a proper administration of the Law may require.

## TAB 8

# CERTIFICATE

NO. 1

For 10 Shares  
Issued to  
THE WILLIAMS COMPANIES

Dated FEB. 1 1972

FROM WHOM TRANSFERRED

CONTINENTAL CIL

Dated 19

NO. ORIGINAL CERTIFICATE	NO. ORIGINAL SHARES	NO. OF SHARES TRANSFERRED
	10	10

Received CERTIFICATE NO. 1  
For 10 Shares  
to this 1<sup>st</sup> day of FEB. 1972

NUMBER 1	SHARES 10
-------------	--------------

As a Delaware Corporation

*Exchanged for 10 shares of Continental CIL Co. 1/30/72*

## Agrico Chemical Company

This Certifies that THE WILLIAMS COMPANIES is the owner of  
Ten Shares of the Capital Stock of  
AGRICO CHEMICAL COMPANY, fully paid and non-assessable  
transferable only on the books of the Corporation by the holder hereof in  
person or by Attorney upon surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF, the said Corporation has caused this Certificate to be signed  
by its duly authorized officers and its Corporate Seal to be hereunto affixed  
this 1<sup>st</sup> day of February A.D. 1972

Attest:  
*W. J. [Signature]* Secretary  
*R. V. [Signature]* President

SHARES No Par EACH

© GOS 133

## TAB 9

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## PURCHASE AGREEMENT

THIS AGREEMENT, executed as of February 1, 1972, among CONTINENTAL OIL COMPANY, a Delaware corporation (herein called "Conoco"), AGRICO CHEMICAL COMPANY, a Delaware corporation (herein called "Agrico"), and THE WILLIAMS COMPANIES, a Nevada corporation (herein called "TWC").

WITNESSETH:

WHEREAS, Conoco desires to sell, assign, convey, and lease to Agrico all of the assets comprising, primarily related to, or used in its plant foods business, including its Agrico Chemical Division, in the United States and Canada (except for certain assets specified herein); and

WHEREAS, Agrico desires to acquire such assets; and

WHEREAS, TWC, as an inducement to Conoco, agrees to guarantee the performance of this Agreement by Agrico.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, it is agreed by and between the parties as follows:

### SECTION I

#### Sale and Purchase of Assets and Rights

A. Except as herein set forth, Conoco does hereby sell, transfer, convey, and assign to Agrico, and Agrico does hereby

purchase and acquire, effective as of 12:01 a.m. CST on February 1, 1972, all of Conoco's rights, title, and interest in and to all assets, properties, and rights comprising, primarily related to, or used in its plant foods business in the United States and Canada, including its Agrico Chemical Division, which assets, properties, and rights (all hereinafter collectively referred to as the "plant foods business") are generally, but not inclusively, described as follows:

1. Inventories of raw material, unfinished goods in process, finished or manufactured goods, merchandise for resale, spare parts, containers, maintenance materials, and operating supplies.
2. Automobiles, trucks, rolling stock, application equipment, and other mobile equipment.
3. Machinery, equipment, storage tanks, buildings, improvements, fixtures, and office furniture and fixtures.
4. Intangible properties comprising certain U.S. and foreign patent applications and patents and U.S. and foreign marks, together with the goodwill of that part of the business connected with and symbolized by such marks, and all other trade secrets, proprietary rights, inventions, research data and the like primarily related to or used by Conoco in its plant foods business, subject to,

and as more particularly set forth in, Section XII hereto.

5. Tracts of land and other interests in real estate, mineral interests, mineral properties and deposits, together with the improvements thereto as used in connection with, or primarily related to, Conoco's plant foods business, as specifically shown in Exhibit "A" attached hereto and made a part hereof.

6. Leases, subleases, licenses, and other interests in land (other than fee interests), together with all improvements and fixtures located thereon, as such are used in connection with, or primarily related to, Conoco's plant foods business.

7. All current and pertinent files, books, records, accounts, customer lists, computer programs and other business documents and information, or copies thereof, or portions thereof, used by Conoco in and necessary to the ownership and operation of Conoco's plant foods business, except those specifically excluded by mutual agreement of the parties.

8. It is specifically intended that the assets, properties, and rights sold, transferred, and assigned hereunder, include assets, properties, and rights of the plant foods business of Conoco, whether

or not presently used by or carried on the books of account of said business, if historically or functionally treated to be assets, properties and rights of said business.

9. All of the capital stock owned by Conoco in the following corporations:

<u>Name</u>	<u>State of Incorporation</u>
North Carolina Phosphate Company (50%)	New York
Cajun Sugar Cooperative, Inc. (60 sh. Class A Preferred)	Louisiana
Agricultural Chemicals Limited (100%)	Canada
Fishhawk Ranch, Inc. (100%)	Florida
The American Agricultural Chemical Company (100%)	New Jersey

B. Notwithstanding the preceding grants, the following assets, properties, and rights are specifically excepted from this Agreement and not to be conveyed hereunder: (i) cash, marketable securities, accounts and notes receivable (except cash, marketable securities, accounts and notes receivable of Agricultural Chemicals Limited for which Agrico shall compensate Conoco as provided in Section IV hereof), (ii) claims and litigation against other parties and any proceeds thereof, and (iii) its assets at Carteret, New Jersey.

Conoco shall reserve a leasehold interest for a primary term of ten (10) years, commencing at 12:01 a.m. EST on February 1, 1972, and as long thereafter as any of the hereinafter described minerals is produced hereunder, for the purpose of exploring for,

or note results in a reduction of the gross balance due on such receivable or note in excess of ten percent (10%) or One Thousand Dollars (\$1,000), whichever is the lesser, such compromise settlement shall be made only upon written approval of such representative.

I. Agrico shall reimburse Conoco for the cash, marketable securities and accounts and notes receivable, less total liabilities of Agricultural Chemicals Limited as of February 1, 1972. For this purpose, amounts payable by Agricultural Chemicals Limited to its parent company shall not be considered liabilities. The reimbursement shall be made one sixth (1/6) each month, commencing March 1, 1972. Agrico shall be entitled to deduct from its reimbursements to Conoco any uncollectible accounts and any unrecorded liabilities as of February 1, 1972. Agricultural Chemicals Limited will retain ownership and title to its cash, marketable securities, and notes and accounts receivable, and will continue to be responsible for its liabilities as of February 1, 1972.

## SECTION V

### Contracts, Leases, and Obligations

A. From and after February 1, 1972, Agrico assumes and agrees to keep, observe, and perform all of the covenants, obligations, and duties, express or implied, imposed upon, assumed by, or agreed to by Conoco under all of the contracts, leases, sub-

leases, licenses, and other agreements ("Contracts") of Conoco specifically respecting the plant foods business being sold hereunder and the operation thereof. Conoco assigns to Agrico, as of February 1, 1972, all of its right, title, and interest in such Contracts which are assignable, and if consent is required for the assignment of any such Contracts, then Conoco and Agrico will use their best efforts to obtain such consent. If consent to assignment is not obtained with respect to any Contract, the parties will cooperate in every reasonable manner to effectuate the performance of any such Contract.

B. Conoco expressly assumes liability for all claims, demands and causes of action against Conoco accruing prior to February 1, 1972. Conoco acknowledges its responsibility for such liability and agrees to indemnify, defend, and hold Agrico and TWC harmless against any such claims, demands or causes of action, including the reimbursement of reasonable attorneys' fees and expenses to Agrico and TWC (provided, however, that Conoco will not be liable for loss of profit from or expenses incurred on or after February 1, 1972 resulting from injunctions or requested injunctions, exclusive of damages sought in connection therewith for which Conoco has assumed liability under this paragraph B, relating to any conditions which existed at February 1, 1972). Agrico shall assist Conoco in the handling and defense of such claims and actions.

historical records and documents as might be required for income tax or financial purposes.

J. Anything in this Agreement to the contrary notwithstanding, under no circumstances will any party be required to complete the sale and purchase of less than substantially all of the assets intended to be sold by this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ATTEST:

John A. Kelley  
Secretary

CONTINENTAL OIL COMPANY

By Howard W. Klamert  
President - Conoco Chemicals  
Division of Continental Oil  
Company

ATTEST:

Harold Brunner  
Secretary

AGRICO CHEMICAL COMPANY

By R. F. Lundberg  
Chairman of the Board and Chief  
Executive Officer

ATTEST:

Harold Brunner  
Secretary

THE WILLIAMS COMPANIES

By Sh. Williams  
Chairman of the Board and Chief  
Executive Officer

TAB 10

CERTIFICATE OF AGREEMENT OF MERGER

OF

AGRICO CHEMICAL COMPANY (DEL.)

MERGING

WILLCHEMCO, INC. (DEL.)

UNDER NAME OF

AGRICO CHEMICAL COMPANY (DEL.)

7704-44  
FILED

JUN 30 1972

Walter H. Simpson  
SECRETARY OF STATE

00018

AGREEMENT OF MERGER

THIS AGREEMENT OF MERGER, dated this 23rd day of June, 1972, made by and between AGRICO CHEMICAL COMPANY, a Delaware corporation, hereinafter sometimes called "Agrico", with its principal office in the State of Delaware, at 100 West Tenth Street, Wilmington, Delaware, and WILLCHEMCO, INC., a Delaware corporation, hereinafter sometimes called "Willchemco", with its principal offices in the State of Delaware at 100 West Tenth Street, Wilmington, Delaware, such corporations being hereinafter sometimes collectively called "the Constituent Corporations",

W I T N E S S E T H    T H A T:

WHEREAS, Agrico is a corporation duly organized and existing under the laws of the State of Delaware having been incorporated on January 27, 1966, and having an authorized capital stock consisting of 200 shares, all of which are of one class with no par value, of which shares 10 shares are issued and outstanding; and

WHEREAS, Willchemco is a corporation duly organized and existing under the laws of the State of Delaware, having been incorporated on February 26, 1971, and having an authorized capital stock consisting of 10,000 shares, all of which are of one class with a par value of \$1.00 a share, of which shares 10,000 shares are issued and outstanding; and

WHEREAS, the respective Boards of Directors of each of the Constituent Corporations deem it advisable and generally to the welfare and advantage of each of the Constituent Corporations that Agrico be merged into Willchemco and they have duly approved and authorized the form of this Agreement of Merger; and

WHEREAS, the laws of the State of Delaware permit such a merger, and the Constituent Corporations desire to merge under and pursuant to the provisions of the laws of the State of Delaware;

NOW THEREFORE, in consideration of the premises and of the mutual agreements and covenants herein contained, it is agreed that Agrico shall be and it hereby is merged into Willchemco, which shall be the surviving corporation, hereinafter sometimes referred to as the Surviving Corporation, pursuant to Section 251 of General Corporation Law of the State of Delaware, and the terms and conditions of such merger and the mode of carrying it into effect are and shall be as follows:

1. Certificate of Incorporation of Surviving Corporation.

The Certificate of Incorporation of the Surviving Corporation shall be the Amended Certificate of Incorporation of Willchemco as in effect on the date hereof, except that upon the effective date of the merger the First Article thereof shall be and is by this Agreement of Merger amended to read as follows:

"FIRST. The name of the Corporation is  
AGRICO CHEMICAL COMPANY"

and the Fifth Article thereof shall be and is by this Agreement of Merger amended to read as follows:

"FIFTH. The total number of shares of stock which the corporation shall have authority to issue is 20,000 shares of common stock, par value \$1.00 per share, amounting in the aggregate to \$20,000.00."

The Amended Certificate of Incorporation of Willchemco, as hereinabove amended, shall constitute the composite Certificate of Incorporation of the Surviving Corporation unless and until further amended in the manner provided by law, and is hereby incorporated in and made a part of this Agreement of Merger with the same force and effect as if set forth in full herein.

2. Bylaws of Surviving Corporation.

The Bylaws of Willchemco, as they shall exist upon the effective date of the merger, shall be and remain and continue to be the Bylaws of the Surviving Corporation until they shall be altered, amended, or repealed in accordance with law, the Certificate of Incorporation or such Bylaws.

3. Directors and Officers.

(a) Persons who are Directors of Willchemco on the effective date of the merger shall be and remain and continue to be Directors of the Surviving Corporation; such Directors shall hold office until the first annual meeting of the stockholders of the

of common stock of the Surviving Corporation as of any date subsequent to the effective date of the merger shall be paid to such holder with respect to the number of shares of common stock of the Surviving Corporation represented by such outstanding certificate or certificates; but, upon surrender of such outstanding certificate or certificates, there shall be paid to the record holder of the certificate or certificates for common stock of the Surviving Corporation issued in exchange therefor the amount of dividends which theretofore have become payable with respect to the number of shares of common stock of the Surviving Corporation represented by the certificate or certificates issued in the exchange.

6. Effect of merger.

Upon this merger becoming effective:

(a) The Surviving Corporation shall possess all the rights, privileges, powers, and franchises as well of a public as of a private nature, and shall be subject to all the restrictions, disabilities, obligations, and duties of each of the Constituent Corporations, except as otherwise herein provided, and except as otherwise provided by law;

(b) The Surviving Corporation shall be vested with all property, real, personal, or mixed, and all debts due to the Constituent Corporations on whatever account as well as all other things in action or belonging to the Constituent Corporations; and

(c) All property, rights, privileges, powers, and franchises of the Constituent Corporations shall be thereafter as effectually the property of the Surviving Corporation as they were of the Constituent Corporations, but all rights of creditors and all liens upon any property of any of the Constituent Corporations shall be preserved unimpaired, limited in lien to the property affected by such liens immediately prior to the effective date of the merger; and all debts, liabilities, obligations, and duties of the Constituent Corporations shall thenceforth attach to, and are hereby assumed by, the Surviving Corporation and may be enforced against it to the same extent as if such debts, liabilities, obligations, and duties had been incurred or contracted by it.

7. Delivery of Deeds and instruments.

From time to time as and when requested by the Surviving Corporation or by its successors or assigns, each of the Constituent Corporations shall execute and deliver or cause to be executed and delivered, all deeds and other instruments and shall take, or cause to be taken, all such other and further actions as the Surviving Corporation may deem necessary and desirable in order more fully to vest in and confirm to the Surviving Corporation title to and possession of all the property, rights, privileges, powers and franchises referred to in paragraph 6 hereof

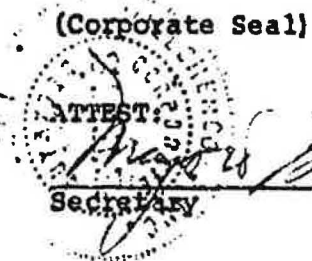
seals to be hereunto affixed and attested, all as of the day and year first above written.



E. V. Rueden  
Assistant Secretary

AGRICO CHEMICAL COMPANY

By John H. Bahlitz  
President



Walter S. Guerner  
Secretary


WILLCHEMCO, INC.

By Smith F. Lundberg  
Chairman of the Board

STATE OF OKLAHOMA     )  
                              ) ss.  
COUNTY OF TULSA        )

Be it remembered that on this 23rd day of June, 1972, personally came before me Peggy Pongratz, a Notary Public in and for the State aforesaid, John F. Babbitt, Jr., President of AGRICO CHEMICAL COMPANY, a corporation of the State of Delaware, and one of the corporations described in and which executed the foregoing Agreement of Merger, known to me personally to be such, and he, the said John F. Babbitt, Jr. as such President, duly executed said Agreement of Merger before me and acknowledged said Agreement of Merger to be the act, deed and agreement of said AGRICO CHEMICAL COMPANY, that the signatures of the said President and the Assistant Secretary of said corporation to said foregoing Agreement of Merger are in the handwriting of said President and Assistant Secretary of said AGRICO CHEMICAL COMPANY, and that the seal affixed to said Agreement of Merger is the common corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

 (Notarial Seal)

My Commission Expires:

October 7, 1975

  
\_\_\_\_\_  
Notary Public

STATE OF OKLAHOMA     )  
                              ) ss.  
COUNTY OF TULSA        )

Be it remembered that on this 23rd day of June, 1972, personally came before me Peggy Pongratz, a Notary Public in and for the State aforesaid, Chairman of the Board of Directors of WILLCHEMCO, INC., a corporation of the State of Delaware, and one of the corporations described in and which executed the foregoing Agreement of Merger, known to me personally to be such, and he, the said Kenneth F. Lundberg, as such Chairman of the Board of Directors, duly executed said Agreement of Merger before me and acknowledged said Agreement of Merger to be the act, deed and agreement of said WILLCHEMCO, INC., that the signatures of the said Chairman of the Board of Directors and the Secretary of said corporation to said foregoing Agreement of Merger are in the handwriting of said Chairman of the Board of Directors and Secretary of said WILLCHEMCO, INC., and that the seal affixed to said Agreement of Merger is the common corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

  
\_\_\_\_\_  
Notary Public

(Notarial Seal)

My Commission Expires:

October 7, 1975

C E R T I F I C A T E

I, E. V. Friedrich, an Assistant Secretary of AGRICO CHEMICAL COMPANY, a corporation organized and existing under the laws of the State of Delaware, hereby certify, as such Assistant Secretary and under the seal of the said corporation, that the Agreement of Merger to which this Certificate is attached, after having been first duly approved by Resolution of the Board of Directors of said corporation and by Resolution of the Board of Directors of WILLCHEMCO, INC., a Delaware corporation, the other corporate party, was duly submitted to the stockholders of said AGRICO CHEMICAL COMPANY at a special meeting of said stockholders called and held separately from the meeting of stockholders of any other corporation, upon waiver of notice, signed by all the stockholders, for the purpose of considering and taking action upon said Agreement of Merger, that ten (10) shares of stock of said corporation were on said date issued and outstanding, that the holders of ten (10) shares voted in favor of approval and that the holders of None (0) shares voted against approval, that the proposed Agreement of Merger was therefore approved by the affirmative vote of the holders of at least a majority of the voting power of the stockholders of said corporation, and that thereby the Agreement of Merger was at said meeting duly adopted as the act of the stockholders of said AGRICO CHEMICAL COMPANY, and the duly adopted agreement of the said corporation.

WITNESS my hand and the seal of said AGRICO CHEMICAL COMPANY  
on this 23rd day of June, 1972.



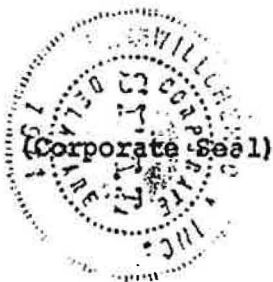
E. V. Hines, Jr.  
Assistant Secretary

C E R T I F I C A T E

I, Major O. Brunner, Secretary of WILLCHEMCO, INC., a corporation organized and existing under the laws of the State of Delaware, hereby certify, as such Secretary and under the seal of the said corporation, that the Agreement of Merger to which this Certificate is attached, after having been first duly approved by Resolution of the Board of Directors of said corporation and by Resolution of the Board of Directors of AGRICO CHEMICAL COMPANY, a Delaware corporation, the other corporate party, was duly submitted to the stockholders of said WILLCHEMCO, INC. at a special meeting of said stockholders called and held separately from the meeting of stockholders of any other corporation, upon waiver of notice, signed by all the stockholders, for the purpose of considering and taking action upon said Agreement of Merger, that ten thousand (10,000) shares of stock of said corporation were on said date issued and outstanding, that the holders of ten thousand (10,000) shares voted in favor of approval and that the holders of None (0) shares voted against approval, that the proposed Agreement of Merger was therefore approved by the affirmative vote of the holders of at least a majority of the voting power of the stockholders of said corporation, and that thereby the Agreement of Merger was at said meeting duly

adopted as the act of the stockholders of said WILLCHEMCO, INC.,  
and the duly adopted agreement of the said corporation.

WITNESS my hand and the seal of said WILLCHEMCO, INC. on  
this 23rd day of June, 1972.



  
Secretary

THE ABOVE AGREEMENT OF MERGER, having been executed on behalf of each corporate party thereto, and having been adopted separately by each corporate party thereto, in accordance with the provisions of the General Corporation Law of the State of Delaware, and that fact having been certified on said Agreement of Merger by the Assistant Secretary of AGRICO CHEMICAL COMPANY and by the Secretary of WILLCHEMCO, INC., the President of AGRICO CHEMICAL COMPANY and the Chairman of the Board of WILLCHEMCO, INC. do now hereby execute the said Agreement of Merger and the Assistant Secretary of AGRICO CHEMICAL COMPANY and the Secretary of WILLCHEMCO, INC. do now hereby attest the said Agreement of Merger as the respective act, deed and agreement of each of said corporations, on this 23rd day of June, 1972.



(Corporate Seal)

ATTEST:

K. V. Kline  
Assistant Secretary

AGRICO CHEMICAL COMPANY

By

John D. Babbitt  
President

(Corporate Seal)

ATTEST:

Harold E. Guerner  
Secretary

WILLCHEMCO, INC.

By

Kenneth F. Lundberg  
Chairman of the Board

00038

## TAB 11

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# FREEPORT McMoRan

Freeport-McMoRan Inc.  
1615 Poydras Street  
New Orleans, Louisiana  
TIMOTHY G. BURNS  
Attorney

P O Box 61119  
New Orleans, LA 70161

Telephone:  
(504) 582-1972

January 29, 1987

## BY HAND

Director of Operations  
Antitrust Division  
Room 3218  
Department of Justice  
Washington, D.C. 20530

Premerger Notification  
Office  
Bureau of Competition  
Room 303  
Federal Trade  
Commission  
Washington, D.C. 20580

Dear Sir or Madam:

Enclosed are the requisite number of notarized copies (with one set of documentary attachments) of the Notification and Report Form for Certain Mergers and Acquisitions ("Report Form") filed on behalf of Freeport-McMoRan Resource Partners, Limited Partnership ("FMRP"), pursuant to the Hart-Scott-Rodino Antitrust Improvements Acts of 1976 (the "Act") relating to the acquisition by FMRP of the assets of Agrico Chemical Company, a wholly-owned subsidiary of The Williams Companies ("Williams").

FMRP is a Delaware limited partnership in which Freeport-McMoRan Inc. ("FMI") and its affiliates own an 81% partnership interest. FMRP was formed in April, 1986, and succeeded to substantially all of the sulphur, phosphate, and geothermal energy businesses of FMI in June, 1986. The remaining ownership interests of FMRP were recently sold by underwriters in an initial public offering. Although FMRP is considered the ultimate parent entity for purposes of the Report Form, we are also furnishing information relating to FMI pursuant to Rule 803.1(b), which is attached to the Report Form as a supplement.

Redacted Text

Redacted Text

Please indicate the date and time of filing on the enclosed copy of this letter returning the same to me for our files.

Very truly yours,

*Timothy G. Burns*

Timothy G. Burns

TGB/ttz

TAB 12

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EXECUTION COPY

A-1

ASSET PURCHASE AGREEMENT

Dated as of February 28, 1987

Among

FREEPORT-McMoRan RESOURCE PARTNERS,  
LIMITED PARTNERSHIP

THE WILLIAMS COMPANIES

and

AGRICO CHEMICAL COMPANY

## ASSET PURCHASE AGREEMENT

ASSET PURCHASE AGREEMENT dated as of February 28, 1987 among FREEPORT-McMoRan RESOURCE PARTNERS, LIMITED PARTNERSHIP, a Delaware limited partnership ("FMRP"), THE WILLIAMS COMPANIES, a Nevada corporation ("Williams"), and AGRICO CHEMICAL COMPANY, a Delaware corporation ("Agrico") and a wholly-owned subsidiary of Williams,

### W I T N E S S E T H :

WHEREAS, FMRP, Williams and Agrico desire that FMRP purchase from Agrico, and that Agrico sell to FMRP, substantially all of the assets of Agrico and that FMRP assume substantially all of the liabilities of Agrico, with the exceptions herein set forth;

NOW, THEREFORE, in consideration of the premises and of the respective representations, warranties, covenants, agreements and conditions contained herein, the parties hereto hereby agree as follows:

### ARTICLE I

#### Purchase, Sale and Assumption

1.01. Purchase and Sale. On the terms and subject to the conditions of this Agreement, FMRP agrees to purchase from Agrico and Agrico agrees to sell, transfer and assign to FMRP, and Williams agrees to cause Agrico to so sell, transfer and assign, at the time of the Closing (as defined in Section 2.01), but effective as of the close of business on February 28, 1987 (the "Effective Date"), all of the Agrico Assets (as defined in Section 1.02(a)). It is understood that, notwithstanding anything herein to the contrary, upon completion of the Closing (as defined in Section 2.01), the Agrico Businesses will be deemed to have been operated for the benefit and at the risk of FMRP from the Effective Date. Accordingly, upon completion of the Closing and without in any way altering the obligations of the parties as set forth in this Agreement (including without limitation the obligations of Williams and Agrico pursuant to Sections 5.01(c) and 5.07), all profits and losses of, and transactions effected with respect to, the Agrico Businesses from

(iv) All rights, tax refunds, credits and claims with respect to Excluded Liabilities (as defined in Section 1.03(c)), including, without limitation, any funds associated with any pension or similar employee benefit obligations specified in Section 1.03(c)(v) and any rights with respect to existing union contracts covering Agrico employees;

(v) The interest of Agrico in certain affiliates, as set forth in Schedule 1.02(b)(v);

(vi) The deferred Freeport Contract Modification Costs as shown on the Balance Sheet;

(vii) Williams' rights in its internally developed payroll personnel computer software programs, unless used exclusively in connection with Agrico employees (the "PP Software") and insurance software programs; and

(viii) All rights of Agrico and Williams hereunder.

(c) The term "Agrico Businesses" means all activities of Agrico related to the mining, processing, manufacturing, handling, transportation, distribution and sale of agricultural minerals and chemicals except as related to Excluded Assets and Excluded Liabilities.

1.03. Assumption of Liabilities. (a) On the terms and subject to the conditions of this Agreement, FMRP agrees, at the time of the Closing, but effective from the Effective Date, to assume the Assumed Liabilities.

(b) The term "Assumed Liabilities" means all liabilities and deferred credits of Agrico of whatever kind and whether or not accrued or fixed, absolute or contingent, known or unknown, determined or determinable, to the extent such liabilities arise from events occurring prior to the Effective Date or relate to any period ending at or prior to the Effective Date, other than Excluded Liabilities (as defined in Section 1.03(c)).

(c) The term "Excluded Liabilities" means any liability of whatever kind and whether or not accrued or fixed, absolute or contingent, known or unknown, determined or determinable and whenever arising, relating to or constituting

(i) Federal, state, local and foreign income taxes, including deferred taxes, with respect to operations of Agrico and its Subsidiaries during any period ending at or prior to the close of business on the Effective Date;

(ii) any advances, loans, notes or other obligations (including interest incurred on such advances, loans, notes and other obligations) owed to Williams or any subsidiary or affiliate of Williams, other than obligations for goods and services incurred in the ordinary course of the Agrico Businesses on reasonable commercial terms;

(iii) any indemnity payments or similar obligations arising under any "safe harbor" leases as a result of the consummation of the transactions contemplated hereby or otherwise;

(iv) any claims or liabilities relating to Excluded Assets (except (A) liabilities arising directly out of and attributable to FMRP's actual mining activity in the Saddle Creek Property in the exercise of its mining rights pursuant to Section 1.02(a)(ix) and (B) as provided in Section 6.05(c));

(v) except as provided under Article VIII of the Management Agreement attached hereto as Schedule 5.12(c) and Section 6.05(c), (A) any pension or other benefit obligations with respect to employees of Agrico arising out of or attributable to any period ending at or prior to the close of business on the Effective Date or any conduct of Agrico or Williams during any such period including any pension or other benefit obligations arising out of any existing contracts with labor unions; (B) any liability under ERISA (as defined herein) arising out of (x) any actions taken by Williams or Agrico with respect to the pension and employee benefit plans covering any Agrico employees prior to the Effective Date and by Williams thereafter or (y) the transactions contemplated by this Agreement, including without limitation, any "transferee liability" that may be asserted as a result of FMRP's acquisition of the Agrico Assets; and (C) any liability under any existing contracts with labor unions;

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3  
(vi) deferred credits on the Balance Sheet (as defined in Section 3.05) which relate to deferred profit from the transfer of certain assets to Crop Production Services;

(vii) any Agrico liability for the gypsum closure provided for in Section 8 of Amendment No. 3 to the Agreement dated as of November 1, 1972 between Agrico, Freeport Chemical Company and Freeport Phosphate Rock Company;

(viii) any liability of whatever kind and whether or not accrued or fixed, absolute or contingent, determined or determinable and whenever arising, known to Agrico or Williams but not reflected on the Balance Sheet or otherwise disclosed on Schedule 3.09 which would or is likely to have a material adverse effect on Agrico, the Agrico Businesses or the assets thereof;

(ix) any liability involving criminal activities, fraud or willful misconduct on the part of Agrico or its employees, agents, officers or directors, including, without limitation, liabilities of the type referred to in Section 3.17;

(x) any sales or use taxes payable to St. James Parish, Louisiana and the State of Louisiana in respect of sulphur purchases by Agrico during any period ending prior to the Effective Date;

(xi) any claims or liabilities, known (except as identified on Schedule 3.37(d)) or unknown, arising out of events occurring prior to the Closing, but only to the extent such claims or liabilities are covered by insurance policies or indemnification arrangements with third parties under which Williams or Agrico is a named insured or beneficiary; and

(xii) any claims or liabilities relating to conditions (existing on or prior to the Effective Date) identified on Schedule 3.37(d) on properties identified on Schedule 3.37(d) to the extent (A) such claims or liabilities are covered by insurance policies or indemnification arrangements with third parties under which Williams or Agrico is a named insured or beneficiary or (B) such claims or liabilities are covered by Williams indemnity to FMRP under Section 5.07(b).

sents, in each case as promptly as practicable, and will cooperate promptly and fully with FMRP with respect to the HSR Act (and any request for additional information thereunder).

(b) Agrico agrees to obtain any and all consents required to transfer to FMRP (whether by deed, sublease or lease assignment) all of Agrico's beneficial interest in, its Blytheville Facilities.

5.05. Confidentiality. Williams and Agrico will, and will cause its Subsidiaries (at all times prior to the Closing) to, use their reasonable efforts to preserve the confidentiality of all proprietary information of Agrico and its Subsidiaries and all confidential or proprietary information obtained with respect to FMRP and its businesses.

5.06. Further Assurances. Agrico will use reasonable efforts to facilitate and effect the implementation of the transfer of the Agrico Assets to FMRP and, for such purpose but without limitation, Agrico will promptly, at and after the Closing Date, execute and deliver to FMRP such assignments, deeds, bills of sale, consents and other instruments as FMRP or its counsel may reasonably request as necessary or desirable for such purpose (and as to which the general counsel of Williams has no reasonable objection).

5.07. Indemnification for Excluded Liabilities.  
(a) Except as provided in Section 5.07(b), Williams hereby indemnifies FMRP and (effective upon the Closing Date) each Subsidiary against, and agrees to hold them harmless from, all Excluded Liabilities and any loss, liability, claim, damage or expense (including reasonable legal fees and expenses) for or on account of or arising from or in connection with any Excluded Liability, it being understood that FMRP agrees to give Williams prompt notice of any claim with respect to which it may be entitled to indemnity under this Section 5.07(a) and that Williams shall have the right to (and shall, upon the request of FMRP) assume the defense of any such claim (to the extent FMRP is so indemnified).

(b) Williams hereby indemnifies and holds harmless FMRP from and against all loss, liability, claim, damage or expense, including reasonable legal fees and expenses (in excess of the first \$5,000,000 of the cumulative aggregate amount thereof, which shall be borne by FMRP) for or on account of or arising from or in connection with the clean-up or other remedial treatment of sites listed on Schedule 3.37(d) mandated under federal, state or local environmental

any affiliate as a result of any failure to comply with any "bulk sales" or similar laws.

11.08. Agrico Transfers. Agrico shall have the right to transfer the Excluded Assets to anyone at any time.

11.09. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

11.10. Table of Contents; Captions. Any Table of Contents relating to this Agreement and the captions herein are included for convenience of reference only, are not a part of this Agreement and shall be ignored in the construction and interpretation hereof.

11.11. Entire Agreement. This Agreement, together with the Agreements referred to in Sections 2.02, 5.12(c), 5.13 and 9.01(f), embodies the entire agreement and understanding of the parties hereto, and supersedes any prior understandings and agreements, with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

FREEPORT-McMoRan RESOURCE PARTNERS,  
LIMITED PARTNERSHIP

By FREEPORT MINERALS COMPANY, as  
Administrative Managing  
General Partner

By Rene L. L. L. L.

FREEPORT-McMoRan INC.,  
as Special General Partner

By [Signature]

THE WILLIAMS COMPANIES

By Joseph H. Ladd

AGRICO CHEMICAL COMPANY

By Wm. H. Ladd

TAB 13

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CONTRIBUTION AGREEMENT

dated as of  
April 5, 1993

between

FREEPORT-McMoRan RESOURCE PARTNERS,  
LIMITED PARTNERSHIP

and

IMC FERTILIZER, INC.

## CONTRIBUTION AGREEMENT

AGREEMENT dated as of April 5, 1993 between Freeport-McMoRan Resource Partners, Limited Partnership, a Delaware limited partnership ("FRP") and IMC Fertilizer, Inc., a Delaware corporation ("IMC").

### W I T N E S S E T H:

WHEREAS, each of FRP and IMC is engaged in the Phosphate Chemicals Business, as defined below (with respect to each of FRP and IMC, the "Business");

WHEREAS, each of FRP and IMC wishes to cause the formation of IMC-Agrico Company, a Delaware general partnership (the "Partnership"), pursuant to a Partnership Agreement in the form attached hereto as Exhibit A (the "Partnership Agreement") and wishes to contribute or cause the contribution of assets related to its Business (except the Excluded Assets, as defined below) to the Partnership and to cause the Partnership to perform, assume and discharge the Assumed Liabilities (as defined below);

WHEREAS, IMC and FRP wish to form IMC-Agrico MP, Inc., a Delaware corporation (the "Managing Partner"), to manage the business of the Partnership pursuant to the terms of the Partnership Agreement;

WHEREAS, IMC wishes to form IMC-Agrico GP Company, a Delaware company ("IMC GPCo"), to contribute its Contributed Business (as defined below) to IMC GPCo in exchange for 500 shares of common stock of IMC GPCo, to cause IMC GPCo to issue 100 shares of non-redeemable preferred stock to the Managing Partner and to cause IMC GPCo to contribute IMC's Contributed Business to the Partnership in exchange for an interest therein; and

WHEREAS, FRP wishes (a) to form Agrico LP, a Delaware limited partnership ("FRP LP"), (b) to contribute its interest in the Partnership to FRP LP in exchange for a limited partnership interest in FRP LP, (c) to cause a subsidiary of Freeport-McMoRan Inc. ("FTX") to participate in FRP LP as general partner, and (d) to cause the general partner of FRP LP ("FRP GPCO") to issue 100 shares of non-redeemable preferred stock to the Managing Partner;

## ARTICLE II

### ORGANIZATION; CONTRIBUTION

2.01. Organization of the Partnership. Upon the terms and subject to the conditions of this Agreement, on the Closing Date, FRP and IMC shall cause IMC GPCO, FRP LP and the Managing Partner to execute the Partnership Agreement and shall cause the Partnership to be formed under the laws of the State of Delaware.

2.02. Contribution. (a) Upon the terms and subject to the conditions of this Agreement, each of IMC (on behalf of IMC GPCo) and FRP agrees to transfer, assign and deliver, or cause to be transferred, assigned and delivered to the Partnership at Closing, as a contribution, free and clear of all Liens, other than Permitted Liens, all of its right, title and interest in, to and under the assets, properties and business (other than Excluded Assets) of every kind and description, wherever located, real, personal or mixed, tangible or intangible, owned, held or used by such party or any of its Affiliates primarily in the conduct of the Business of such party and its Affiliates as the same shall exist on the Closing Date, including all assets (other than Excluded Assets) shown on its Year-end Balance Sheet owned, held or used primarily in the conduct of its Business and not disposed of in the ordinary course of business, and all assets (other than Excluded Assets) owned, held or used primarily in the conduct of its Business thereafter acquired by such party or its Affiliates and not disposed of in the ordinary course of business (with respect to each such party, the "Assets"); provided, however, that the "primarily" standard shall not apply to Sections 2.02(a) (v), (vi), (vii), (viii), (ix), (x), (xii), (xiii) and (xiv), as to which the standards set forth therein shall apply. Without in any way limiting the generality of the foregoing, the Assets shall include all right, title and interest of such party or its Affiliates, in, to and under:

(i) all real property and leases of, and other interests in, real property, including reclaimed and unreclaimed land, used or previously used or held for use primarily in the conduct of the Business of such party (including mining rights, leases, lands, options and other such interests, except for Excluded Assets), in each case together with all buildings, fixtures and improvements erected thereon and all easements, rights of way, tenements, hereditaments thereunto belonging and all of such party's rights in any public or private thoroughfare abutting such real property, including without limitation the items listed on Schedule 3.08(a);

(ii) all personal property and interests therein, including machinery, pipes, tools, equipment, furniture, office equipment, communications equipment, vehicles, storage

tanks, spare and replacement parts, fuel and other trade fixtures, fixed assets and tangible property (other than Excluded Assets) used primarily in the conduct of the Business of such party ("Personal Property"), including without limitation the items listed on Schedule 3.08(b);

(iii) all raw materials, work-in-process, finished goods, supplies and other inventories (other than Excluded Assets) used primarily in the conduct of the Business of such party including without limitation, in the case of FRP, all inventories of sulphur products located at operating facilities of its Business which are accounted for as assets of the Freeport Sulphur Company Division ("FSCD Inventory");

(iv) all rights under all contracts, agreements, leases, licenses, commitments, sales and purchase orders and other instruments (other than Excluded Assets) used primarily in the conduct of the Business of such party, including without limitation the items listed on Schedule 3.12 (collectively, the "Contracts");

(v) all accounts receivable, notes receivable and other receivables (other than Excluded Assets) attributable to the Business of such Party;

(vi) all prepaid expenses to the extent attributable to the Business of such party, including but not limited to insurance, real estate and ad valorem taxes, leases and rentals (but excluding prepaid premiums on insurance policies that are cancelled prior to the Closing Date);

(vii) all petty cash located at operating facilities of the Business of such Party ("Petty Cash");

(viii) all rights, claims, credits, causes of action or rights of set-off of such party or its Affiliates against third parties to the extent relating to the Business of such party including, without limitation, unliquidated rights under manufacturers' and vendors' warranties (but excluding counterclaims, cross claims, warranty claims and indemnity claims and other rights, whether or not yet asserted, relating to litigation or other claims against such party that are not Assumed Liabilities);

(ix) all transferable licenses, permits or other governmental authorizations relating solely to the Business of such party, including without limitation the items listed on Schedule 3.13;

violation of any provisions of this Agreement during the period from the date hereof until the Closing Date;

(xiii) counterclaims, cross claims and other rights, whether or not yet asserted, relating to litigation or other claims against such party that are not Assumed Liabilities;

(xiv) personnel records relating to individual performance or evaluation records, medical histories or other such sensitive information;

(xv) all capital stock of any subsidiary not listed on Schedule 2.02(a) (xiii); and

(xvi) the real property of IMC described in the Deletion of Land Agreement proposed to be entered into between American Cyanamid, Kerr-McGee, Brewster Phosphates and IMC, and the real property of IMC described in the agreement proposed to be entered into between Tampa Electric Company and IMC, in each case substantially in the form set forth on Schedule 2.03(xvi), and if such agreements are entered into, all rights and obligations of IMC thereunder.

2.04. Assumption of Liabilities. Upon the terms and subject to the conditions of this Agreement, each party shall cause the Partnership, effective at the time of Closing, to assume all of the following liabilities and obligations (other than Excluded Liabilities) that relate primarily to the Contributed Businesses (the "Assumed Liabilities"):

(i) all current liabilities arising in the ordinary course of either of the Contributed Businesses and all other accrued liabilities of either of the Contributed Businesses;

(ii) all liabilities and obligations of the parties or their respective Affiliates arising under the Contracts that constitute Assets (other than liabilities or obligations attributable to any failure by any such party or its Affiliates to comply with the terms thereof);

(iii) all liabilities and obligations of the parties or their respective Affiliates arising under the leases of real property contributed to the Partnership (other than liabilities or obligations attributable to any failure by either party or its Affiliates to comply with the terms thereof);

(iv) except as otherwise listed on Schedule 2.04(iv) or provided in Section 2.05(iv), all past, present and future Environmental Liabilities;

(v) all liabilities and obligations incurred or to be incurred under the St. James Solid Waste Disposal Bonds;

(vi) all liabilities and obligations arising in connection with or relating to the reclamation, shutdown or abandonment of Assets contributed by such party;

(vii) all liabilities and obligations (including Debt obligations) set forth on Schedule 2.04(vii); and

(viii) all liabilities and obligations reflected on the Year-end Balance Sheet of each party (other than any such liabilities paid or discharged prior to the Closing Date) and all liabilities and obligations of the type included in the line item categories set forth on such Year-end Balance Sheet incurred after the date of the Year-end Balance Sheet to the extent such liabilities and obligations are (a) not incurred in violation of any provision of this Agreement or (b) not an Excluded Liability.

Notwithstanding the foregoing, "Assumed Liabilities" shall not include any tax liabilities computed by reference to net income (including any franchise or similar tax liability) of any party or any Affiliates thereof.

2.05. Excluded Liabilities. Notwithstanding any provision in this Agreement, the Partnership is assuming only the Assumed Liabilities and is not assuming any other liability or obligation of the parties (or any predecessor owner of all or part of their respective businesses and assets) of whatever nature, whether presently in existence or arising hereafter. All such other liabilities and obligations shall be retained by and remain the respective obligations and liabilities of each of the parties (all such liabilities and obligations not being assumed being herein referred to as the "Excluded Liabilities"). Without in any way limiting the generality of the foregoing, the following shall be Excluded Liabilities for the purposes of this Agreement:

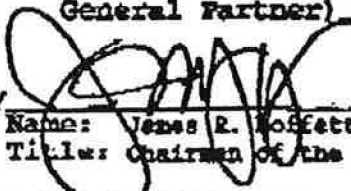
(i) any contingent liability or obligation (other than any Assumed Liability) arising from or with respect to the Assets or the operations of either Business, including any liability or obligation with respect to the matters set forth on Schedule 2.05(i) or any settlement thereof, which is incurred in or attributable to any period ending on or prior to the Closing Date;

(ii) any Debt of each party including, without limitation, the Debt instruments listed on Schedule 2.05(ii), but excluding any liabilities and obligations under the Debt

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

**FREEMPORT-McMORAN RESOURCE  
PARTNERS, LIMITED PARTNERSHIP**

BY: FREEMPORT-McMORAN INC.,  
(Administrative Managing  
General Partner)

By   
Name: James R. Moffett  
Title: Chairman of the Board

IMC FERTILIZER, INC.

By \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

FREEPORT-McMoRan RESOURCE  
PARTNERS, LIMITED PARTNERSHIP

BY: FREEPORT-McMoRan INC.,  
(Administrative Managing  
General Partner)

By \_\_\_\_\_  
Name:  
Title:

IMC FERTILIZER, INC.

By Billie B. Turner  
Name: Billie B. Turner  
Title: President

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## TAB 14



#### **FOURTH AMENDMENT AND AGREEMENT UNDER THE PARTNERSHIP AGREEMENT**

This Fourth Amendment and Agreement Under the Partnership Agreement (this "Amendment") is dated as of June 26, 2000 by and among (i) IMC Global Operations Inc., a Delaware corporation ("Operations"), (ii) Phosphate Resource Partners Limited Partnership, a Delaware limited partnership ("PLP"), (iii) IMC-Agrico MP, Inc., a Delaware corporation (the "Managing Partner"), and (iv) IMC-Agrico Company, a Delaware general partnership (the "Partnership").

#### **WITNESSETH**

**WHEREAS**, Operations, PLP and the Managing Partner are parties to an Amended and Restated Partnership Agreement dated as of July 1, 1993, as further amended and restated as of May 26, 1995, as further amended by the Amendment and Agreement under the Partnership Agreement dated January 23, 1996, as further amended by the Second Amendment and Agreement under the Partnership Agreement dated January 1, 1997 (as amended, the "Partnership Agreement"), as further amended by the Third Amendment and Agreement under the Partnership Agreement dated August 1, 1997 and as further amended by the Fourth Amendment and Agreement under the Partnership Agreement dated December 22, 1997;

**WHEREAS**, Operations, PLP, the Managing Partner and the Partnership desire to amend the Partnership Agreement to change the name of the Partnership;

**NOW, THEREFORE**, in consideration of the covenants and agreements herein set forth and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The first sentence of Section 2.02 of the Agreement is hereby amended and replaced in its entirety with the following:

"The Partnership is to be known as "IMC Phosphates Company" or such other name as the Partners shall unanimously decide."

IN WITNESS WHEREOF, the parties have signed this Amendment as of the date first written above.

IMC GLOBAL OPERATIONS INC.

By: Mary Ann Hynes  
Name: Mary Ann Hynes  
Title: Senior Vice President

PHOSPHATE RESOURCE PARTNERS,  
LIMITED PARTNERSHIP, by IMC GLOBAL INC., its  
Administrative Managing Partner

By: Mary Ann Hynes  
Name: Mary Ann Hynes  
Title: Senior Vice President

IMC-AGRICO MP, INC.

By: Mary Ann Hynes  
Name: Mary Ann Hynes  
Title: Vice President

IMC AGRICO COMPANY

By: IMC-Agrico MP, Inc., its managing general partner

By: Mary Ann Hynes  
Name: Mary Ann Hynes  
Title: Vice President

## TAB 15

# Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "IMC PHOSPHATES COMPANY", CHANGING ITS NAME FROM "IMC PHOSPHATES COMPANY" TO "MOSAIC PHOSPHATES COMPANY", FILED IN THIS OFFICE ON THE TWENTY-SECOND DAY OF OCTOBER, A.D. 2004, AT 6:19 O'CLOCK P.M.



*Harriet Smith Windsor*

Harriet Smith Windsor, Secretary of State

3493656 8100

040765634

AUTHENTICATION: 3430310

DATE: 10-22-04

**CERTIFICATE OF AMENDMENT  
OF  
STATEMENT OF PARTNERSHIP EXISTENCE  
OF  
IMC PHOSPHATES COMPANY**

1. The name of the general partnership is IMC Phosphates Company.
2. The Statement of Partnership Existence is hereby amended as follows:

Article First of the Statement of Partnership Existence is hereby amended to read in its entirety as follows:

"FIRST: The name of the general partnership is Mosaic Phosphates Company (the "Company")."

**IN WITNESS WHEREOF**, the undersigned general partners have duly executed this Certificate of Amendment this 22<sup>nd</sup> day of October, 2004.

**IMC GLOBAL OPERATIONS INC.**

By: /s/ Robert J. Pence  
Name: Robert J. Pence  
Title: Assistant Secretary

**IMC PHOSPHATES MP INC.**

By: /s/ Robert J. Pence  
Name: Robert J. Pence  
Title: Assistant Secretary

**PHOSPHATE ACQUISITION PARTNERS L.P.**

**By: PRP-GP LLC, as Administrative Managing  
General Partner**

By: /s/ Robert J. Pence  
Name: Robert J. Pence  
Title: Secretary

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 06:19 PM 10/22/2004  
FILED 06:19 PM 10/22/2004  
SRV 040765634 - 3493656 FILE

TAB 16

# Delaware

PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"MOAIC PHOSPHATES COMPANY", A DELAWARE GENERAL PARTNERSHIP, WITH AND INTO "MOAIC FERTILIZER, LLC" UNDER THE NAME OF "MOAIC FERTILIZER, LLC", A LIMITED LIABILITY COMPANY ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE TWENTY-NINTH DAY OF JULY, A.D. 2005, AT 11:19 O'CLOCK A.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF MERGER IS THE TWENTY-NINTH DAY OF JULY, A.D. 2005, AT 12:01 O'CLOCK A.M.



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*Harriet Smith Windsor*  
Harriet Smith Windsor, Secretary of State  
AUTHENTICATION: 4056836

DATE: 07-29-05

**CERTIFICATE OF MERGER  
OF  
MOSAIC PHOSPHATES COMPANY  
INTO  
MOSAIC FERTILIZER, LLC**

Pursuant to Section 18-209 of the Delaware Limited Liability Company Act and Section 15-902 of the Delaware Revised Uniform Partnership Act, the undersigned surviving limited liability company submits the following Certificate of Merger for filing and certifies that:

1. The name and jurisdiction of formation or organization of each of the business entities which is to merge are:

<u>Name</u>	<u>Jurisdiction</u>
Mosaic Fertilizer, LLC	Delaware (limited liability company)
Mosaic Phosphates Company	Delaware (general partnership)

2. An agreement of merger has been approved and executed by each of the business entities which is to merge.

3. The name of the surviving limited liability company is: Mosaic Fertilizer, LLC, a Delaware limited liability company.

4. The merger is to become effective on July 29, 2005 at 12:01 p.m. (Eastern Time).

5. The agreement of merger is on file at a place of business of the surviving limited liability company which is located at 3033 Campus Drive, Plymouth, MN 55441.

6. A copy of the agreement of merger will be furnished by the surviving limited liability company on request and without cost, to any member of any constituent limited liability company or any partner of any constituent partnership.

*[Remainder of Page Intentionally Left Blank; Signature Page Follows]*

IN WITNESS WHEREOF, this Certificate of Merger has been duly executed as of the 28th day of July, 2005 by an authorized person of the surviving limited liability company in the merger.

MOSAIC FERTILIZER, LLC

By: 

Mark J. Isaacson  
Vice President and Assistant Secretary

TAB 17

STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT dated as of February 28, 1987 between Freeport Uranium Recovery Company ("FURC") and The Williams Companies ("Williams"),

W I T N E S S E T H :

WHEREAS, Freeport-McMoRan Resource Partners, Limited Partnership ("FMRP") has entered into an Asset Purchase Agreement with Agrico Chemical Company ("Agrico") and Williams dated as of February 28, 1987 (the "Asset Purchase Agreement") with the intention of purchasing all of the Agrico Assets (as defined in the Asset Purchase Agreement); and

WHEREAS, Williams and Agrico expect that third-party consents with respect to the transfer of certain Agrico Assets may not be obtained prior to the "Settlement Date" (which for purposes of this Agreement and the Asset Purchase Agreement means December 31, 1987 or such earlier date as the parties hereto and to the Asset Purchase Agreement shall mutually agree) so as to permit the transfers to FMRP intended in the Asset Purchase Agreement (such Agrico assets for which no consents shall have been obtained prior to the Settlement Date being referred to herein as the "Non-Transferable Assets");

WHEREAS, the Asset Purchase Agreement provides for a price adjustment requiring Williams to reimburse FMRP on the Settlement Date in an amount equal to the then current fair market value of the Non-Transferable Assets as determined by Williams, FMRP and FURC through good faith negotiations (such amount being referred to herein as the "Price Adjustment");

WHEREAS, Williams wishes to make the benefits of such Non-Transferable Assets available to FURC through the sale to FURC of all of the issued and outstanding capital stock of Agrico; and

WHEREAS, FURC wishes to acquire the Non-Transferable Assets through the purchase of all of the issued and outstanding capital stock of Agrico;

ment and this Agreement) entitling any person, firm, trust, corporation or other entity to purchase or otherwise acquire any capital stock of Agrico. None of the Shares was issued in violation of any preemptive or other similar right of any stockholder.

(d) Title to Non-Transferable Assets. The representations and warranties contained in the Asset Purchase Agreement with respect to Agrico's right, title and interest in and to the Agrico Assets are true and correct as applied to the Non-Transferable Assets.

(e) Assets and Liabilities as of the Settlement Date. As of the Settlement Date, all Excluded Assets and Excluded Liabilities (as such terms are defined in the Asset Purchase Agreement) will have been transferred to or assumed by Williams, and Agrico will have (i) no assets other than the Non-Transferable Assets and (ii) no liabilities of any kind whatsoever, whether or not accrued and whether or not contingent or absolute, determined or determinable other than liabilities assumed by FMRP pursuant to the Asset Purchase Agreement or which may be related to the Non-Transferable Assets (such assumed or related liabilities being referred to as the "Liabilities"). There is no existing condition, situation or set of circumstances which could reasonably result in liabilities referred to in clause (ii) above, other than the Liabilities.

#### 4. Representations and Warranties by FURC

FURC hereby represents and warrants to Williams as follows:

FURC is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all necessary power and authority to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance hereof and the consummation of the transactions contemplated hereby by FURC have been duly authorized by all necessary corporate action and this Agreement is a valid and binding agreement of FURC enforceable against FURC in accordance with its terms, subject, as to enforceability, to bankruptcy, insolvency and other similar laws relating to creditors' rights generally. Neither the execution, delivery and performance of this Agreement nor the consummation of the transactions contemplated hereby by FURC do or will violate or conflict with, constitute a breach or

(c) Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns, provided that neither this Agreement nor any right hereunder may be assigned by either party without the consent of the other party except that FURC may assign this Agreement or any rights hereunder to any of its affiliates.

(d) Entire Agreement; Amendment. This Agreement, together with the Asset Purchase Agreement, embodies the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements with respect thereto. This Agreement may be amended, and any provision hereof waived, but only in writing signed by the party against whom such amendment or waiver is sought to be enforced.

(e) Counterparts. This Agreement may be executed in one or more counterparts all of which shall together constitute one and the same instrument and shall become effective when one or more counterparts have been signed by FURC and delivered to Williams and one or more counterparts have been signed by Williams and delivered to FURC.

(f) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, this Agreement has been executed and delivered on behalf of each of the parties hereto as of the day and year first above written.

FREEPORT URANIUM RECOVERY COMPANY

By Russell L. Colclough

THE WILLIAMS COMPANIES

By William L. Williams

TAB 18

NUMBER

7

SHARES

20,000

A Delaware Corporation

# Agrico Chemical Company

Authorized Capital Stock \$20,000.00

**This Certifies that**Freeport-McMoRan Resource Partners,  
Limited Partnership

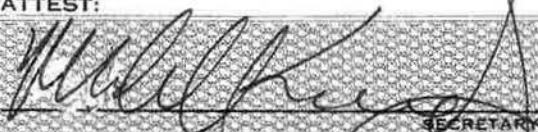
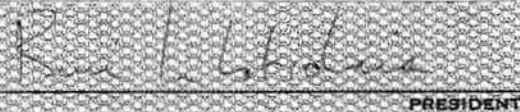
Twenty Thousand

is the owner of  
Shares of the Capital Stock of

AGRICO CHEMICAL COMPANY, fully paid and non-assessable

*transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.**IN WITNESS WHEREOF, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this -22nd- day of December A.D. 1997*

ATTEST:

  
SECRETARY  
PRESIDENT

SHARES

Par

\$1.00

Value

EACH

TAB 19

# Delaware

PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "FREEPORT-MCMORAN RESOURCE PARTNERS, LIMITED PARTNERSHIP", CHANGING ITS NAME FROM "FREEPORT-MCMORAN RESOURCE PARTNERS, LIMITED PARTNERSHIP" TO "PHOSPHATE RESOURCE PARTNERS LIMITED PARTNERSHIP", FILED IN THIS OFFICE ON THE NINTH DAY OF JANUARY, A.D. 1998, AT 8:30 O'CLOCK A.M.

2088630 8100

070586094



*Harriet Smith Windsor*

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 5688988

DATE: 05-18-07

**CERTIFICATE OF AMENDMENT  
TO  
AMENDED AND RESTATED CERTIFICATE  
OF LIMITED PARTNERSHIP**

**OF  
FREEPORT-McMoRan RESOURCE PARTNERS, LIMITED PARTNERSHIP**

WHEREAS, on April 17, 1986, a Certificate of Limited Partnership in the name of Freeport-McMoRan Resource Partners, L.P. (the "Partnership") was filed with the Secretary of State of Delaware (the "Original Certificate"); and

WHEREAS, on June 13, 1986, an Amended and Restated Certificate of Limited Partnership changing the name of the Partnership to Freeport-McMoRan Resource Partners, Limited Partnership was filed with the Secretary of State of the State of Delaware (the "Amended and Restated Certificate"); and

WHEREAS, effective January 17, 1989, a Certificate of Amendment to Amended and Restated Certificate of Limited Partnership reflecting the withdrawal of Geysers Geothermal Company as a general partner and the admission of McMoRan Oil & Gas Co., a Delaware corporation, as a new general partner was filed with the Secretary of State of the State of Delaware (the "First Certificate of Amendment"); and

WHEREAS, effective January 5, 1990, a Certificate of Amendment to Amended and Restated Certificate of Limited Partnership reflecting the withdrawal of Freeport Phosphate Rock Company as a general partner was filed with the Secretary of State of State of Delaware (the "Second Certificate of Amendment"); and

WHEREAS, effective April 16, 1990, a Certificate of Amendment to the Amended and Restated Certificate of Limited Partnership reflecting that through transfers and merger, the two remaining general partners of the Partnership were Freeport-McMoRan Inc., a Delaware corporation ("FTX") and FMRP Inc., a Delaware corporation, was filed with the Secretary of State of State of Delaware (the "Third Certificate of Amendment"); and

WHEREAS, effective as of 1:00 p.m. (Eastern Standard Time) on December 22, 1997, FTX was merged (the "Merger") with an into IMC Global Inc., a Delaware corporation ("IMC"), pursuant to the Agreement and Plan of Merger by and between IMC and FTX dated as of August 26, 1997; and

WHEREAS, IMC has become the Administrative Managing General Partner and Special General Partner of the Partnership as a result of the Merger;

NOW, THEREFORE, pursuant to the provisions of the Delaware Revised Uniform Limited Partnership Act (the "Delaware Act"), as amended, the undersigned does hereby make, subscribe and swear to the following amendments in writing according to the laws of the State of Delaware:

Article I shall be amended as follows:

The name of the limited partnership is "Phosphate Resource Partners Limited Partnership" (hereinafter referred to as the "Partnership")

Article IV shall be amended as follows:

The names and addresses of the general partners of the Partnership are as follows:

IMC Global Inc.	2100 Sanders Road Northbrook, IL 60062
-----------------	-------------------------------------------

FMRP Inc.	1209 Orange Street Wilmington, DE 19801
-----------	--------------------------------------------

IN WITNESS WHEREOF, IMC Global Inc., as the Administrative Managing General Partner and Special General Partner has executed this amendment as of January 9, 1998.

IMC Global Inc., as Administrative  
Managing General Partner and  
Special General Partner

BY: Rose Marie Williams  
Rose Marie Williams  
Title: Secretary

TAB 20

# Delaware

PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"PHOSPHATE RESOURCE PARTNERS LIMITED PARTNERSHIP", A DELAWARE LIMITED PARTNERSHIP,

WITH AND INTO "PHOSPHATE ACQUISITION PARTNERS L.P." UNDER THE NAME OF "PHOSPHATE ACQUISITION PARTNERS L.P.", A LIMITED PARTNERSHIP ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE NINETEENTH DAY OF OCTOBER, A.D. 2004, AT 11:53 O'CLOCK A.M.



3768769 8100M

040752461

*Harriet Smith Windsor*  
Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 3418933

DATE: 10-19-04

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 11:53 AM 10/19/2004  
FILED 11:53 AM 10/19/2004  
SRV 040752461 - 3768769 FILE

## CERTIFICATE OF MERGER

OF

PHOSPHATE RESOURCE PARTNERS LIMITED PARTNERSHIP

INTO

PHOSPHATE ACQUISITION PARTNERS L.P.

Pursuant to Title 6, Sec. 17-211 of the Delaware Revised Uniform Limited Partnership Act, the undersigned surviving limited partnership submits the following Certificate of Merger for filing and certifies that:

1. The name and jurisdiction of formation of each of the domestic limited partnerships which are to merge are:

Name	Jurisdiction
Phosphate Resource Partners Limited Partnership	Delaware
Phosphate Acquisition Partners L.P.	Delaware

2. An agreement and plan of merger has been approved and executed by each of the domestic limited partnerships which are to merge.
3. The name of the surviving limited partnership is: Phosphate Acquisition Partners L.P.
4. The agreement of merger is on file at a place of business of the surviving limited partnership, which is located at 100 South Saunders Road, Suite 300, Lake Forest, Illinois 60045.
5. A copy of the agreement of merger will be furnished by the surviving limited partnership, on request and without cost, to any partner of either of the domestic limited partnerships or any person holding an interest in either of the domestic limited partnerships which are to merge.

IN WITNESS WHEREOF, this Certificate of Merger has been duly executed as of the 19th day of October, 2004.

PHOSPHATE ACQUISITION PARTNERS L.P.

By: PRP-GP LLC, a Delaware limited liability company and its administrative managing general partner

By:



Name: J. Reid Porter

Title: Chairman, President and Chief Executive Officer

TAB 21

## **FIVE BURIED IN GUANO.**

**Tons of Fertilizer Tumble on Them  
and They Are Terribly Injured.**

Five men were buried and more or less severely injured yesterday, when a high pile of guano in bags fell in the works of the American Agricultural Chemical Company, in Laurel Hill, Queens Borough. A force of forty-five men worked half an hour to get them from beneath the pile. All of them will live.

After the five were rescued great excitement prevailed, as it was reported that another man was buried somewhere in the huge pile. The forty-five men went to work desperately, and after they had moved much of the heap the man supposed to be missing walked calmly out. He knew nothing of the accident, and was not missed until noses were counted after the five were drawn from the pile.

The chemical company's works are at Railroad Avenue and Inwood Street, in the Laurel Hill section of Blissville. A large warehouse contained a pile of bagged guano forty feet in height. Workmen were seated at its base eating their noonday meal when the pile shifted and fell on the five, who were not sufficiently quick to escape.

An ambulance call was sent to St. John's Hospital, Long Island City, and the five injured men were taken there. They were John Soroski, whose ribs on one side were all broken and his left ankle fractured; Stanley Velaski, who had nearly all the ribs on both sides of his body crushed; Stephen Verbar, who sustained cuts and bruises; Stanley Koski of 38 Box Street, Brooklyn, who received an injury to the back, and Adam Miller of 540 Oakland Street, Brooklyn, who was bruised about the head, arms, and body.

**The New York Times**

Published: March 26, 1909

Copyright © The New York Times

TAB 22

**Table of Contents****Consolidated Statements of Earnings**  
**In millions, except per share amounts**

	Years Ended May 31,		
	2013	2012	2011
Net sales	\$ 9,974.1	\$ 11,107.8	\$ 9,937.8
Cost of goods sold	7,213.9	8,022.8	6,816.0
Gross margin	2,760.2	3,085.0	3,121.8
Selling, general and administrative expenses	427.3	410.1	372.5
Other operating expenses	123.3	63.8	85.1
Operating earnings	2,209.6	2,611.1	2,664.2
Interest income (expense), net	18.8	18.7	(5.1)
Foreign currency transaction (loss) gain	(15.9)	16.9	(56.3)
Gain on sale of equity investment	-	-	685.6
Other income (expense)	2.0	(17.8)	(17.1)
Earnings from consolidated companies before income taxes	2,214.5	2,628.9	3,271.3
Provision for income taxes	341.0	711.4	752.8
Earnings from consolidated companies	1,873.5	1,917.5	2,518.5
Equity in net earnings (loss) of nonconsolidated companies	18.3	13.3	(5.0)
Net earnings including noncontrolling interests	1,891.8	1,930.8	2,513.5
Less: Net earnings (loss) attributable to noncontrolling interests	3.1	0.6	(1.1)
Net earnings attributable to Mosaic	\$ 1,888.7	\$ 1,930.2	\$ 2,514.6
Basic net earnings per share attributable to Mosaic	\$ 4.44	\$ 4.44	\$ 5.64
Basic weighted average number of shares outstanding	425.7	435.2	446.0
Diluted net earnings per share attributable to Mosaic	\$ 4.42	\$ 4.42	\$ 5.62
Diluted weighted average number of shares outstanding	426.9	436.5	447.5

**See Accompanying Notes to Consolidated Financial Statements**

**Table of Contents****Consolidated Statements of Comprehensive Income**  
**In millions**

	Years ended May 31,		
	2013	2012	2011
Net earnings including noncontrolling interest	\$ 1,891.8	\$ 1,930.8	\$ 2,513.5
Other comprehensive income (loss), net of tax			
Foreign currency translation, net of tax of \$16.0, \$28.0 and \$2.9, respectively	(46.6)	(307.4)	387.4
Net actuarial gain and prior service cost, net of tax of \$5.7, \$14.6 and \$21.7, respectively	(5.7)	(28.7)	36.0
Other comprehensive income (loss)	(52.3)	(336.1)	423.4
Comprehensive income	1,839.5	1,594.7	2,936.9
Less: Comprehensive income (loss) attributable to the noncontrolling interest	2.4	(3.3)	1.5
Comprehensive income attributable to Mosaic	\$ 1,837.1	\$ 1,598.0	\$ 2,935.4

**See Accompanying Notes to Consolidated Financial Statements**

**Table of Contents**

**Consolidated Balance Sheets**  
**In millions, except per share amounts**

	May 31,	
	2013	2012
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 3,697.1	\$ 3,811.0
Receivables, net	1,015.7	751.6
Inventories	1,557.3	1,237.6
Deferred income taxes	75.7	237.8
Other current assets	534.7	543.1
Total current assets	6,880.5	6,581.1
Property, plant and equipment, net	8,486.8	7,545.9
Investments in nonconsolidated companies	431.5	454.2
Goodwill	1,844.6	1,844.4
Deferred income taxes	212.7	50.6
Other assets	229.9	214.2
Total assets	\$ 18,086.0	\$ 16,690.4
<b>Liabilities and Equity</b>		
Current liabilities:		
Short-term debt	\$ 68.7	\$ 42.5
Current maturities of long-term debt	0.9	0.5
Accounts payable	763.1	912.4
Accrued liabilities	845.1	899.9
Deferred income taxes	87.1	62.4
Total current liabilities	1,764.9	1,917.7
Long-term debt, less current maturities	1,009.6	1,010.0
Deferred income taxes	961.4	787.9
Other noncurrent liabilities	907.2	975.4
Equity:		
Preferred stock, \$0.01 par value, 15,000,000 shares authorized, none issued and outstanding as of May 31, 2013 and 2012	-	-
Class A common stock, \$0.01 par value, 254,300,000 shares authorized as of May 31, 2013, 150,059,772 shares issued and 128,759,772 shares outstanding as of May 31, 2013 and 2012	1.3	1.3
Class B common stock, \$0.01 par value, 87,008,602 shares authorized, none issued and outstanding as of May 31, 2013 and 2012	-	-
Common stock, \$0.01 par value, 1,000,000,000 shares authorized, 309,095,779 shares issued and 297,057,317 shares outstanding as of May 31, 2013, 308,749,067 shares issued and 296,710,605 shares outstanding as of May 31, 2012	3.0	3.0
Capital in excess of par value	1,491.3	1,459.5
Retained earnings	11,603.4	10,141.3
Accumulated other comprehensive income	326.4	378.0
Total Mosaic stockholders' equity	13,425.4	11,983.1
Non-controlling interests	17.5	16.3
Total equity	13,442.9	11,999.4
Total liabilities and equity	\$ 18,086.0	\$ 16,690.4

**See Accompanying Notes to Consolidated Financial Statements**

## Table of Contents

### Consolidated Statements of Cash Flows In millions, except per share amounts

	Years Ended May 31,		
	2013	2012	2011
<b>Cash Flows from Operating Activities</b>			
Net earnings including noncontrolling interests	\$ 1,891.8	\$ 1,930.8	\$ 2,513.5
Adjustments to reconcile net earnings including noncontrolling interests to net cash provided by operating activities:			
Depreciation, depletion and amortization	604.8	508.1	447.4
Deferred income taxes	200.0	245.8	196.6
Equity in net loss (earnings) of nonconsolidated companies, net of dividends	32.2	(3.7)	8.2
Accretion expense for asset retirement obligations	33.3	32.4	31.6
Share-based compensation expense	28.2	23.4	21.1
Unrealized loss (gain) on derivatives	(1.4)	45.9	(21.0)
Gain on sale of equity investment	-	-	(685.6)
Excess tax benefits related to share-based compensation	-	-	(13.4)
Loss on sale of fixed assets	18.1	23.1	30.3
Other	12.4	8.4	6.6
<b>Changes in assets and liabilities:</b>			
Receivables, net	(296.7)	118.5	(297.3)
Inventories, net	(315.5)	6.5	(244.7)
Other current assets and noncurrent assets	(2.7)	(238.8)	23.7
Accounts payable	(100.5)	(58.4)	240.1
Accrued liabilities	(55.7)	(2.2)	229.6
Other noncurrent liabilities	(160.8)	66.0	(60.0)
Net cash provided by operating activities	1,887.5	2,705.8	2,426.7
<b>Cash Flows from Investing Activities</b>			
Capital expenditures	(1,588.3)	(1,639.3)	(1,263.2)
Proceeds from sale of equity investment	-	-	1,030.0
Proceeds from sale of businesses	-	-	56.4
Restricted cash	5.1	5.3	(13.7)
Investments in nonconsolidated companies	(15.0)	-	(385.3)
Distributions received from equity investments	2.9	-	-
Other	5.5	6.6	3.7
Net cash (used in) investing activities	(1,589.8)	(1,627.4)	(572.1)
<b>Cash Flows from Financing Activities</b>			
Payments of short-term debt	(263.1)	(148.8)	(381.3)
Proceeds from issuance of short-term debt	289.1	167.9	321.8
Payments of long-term debt	(1.5)	(542.8)	(470.2)
Proceeds from issuance of long-term debt	1.9	748.0	17.6
Payment of tender premium on debt	-	(17.2)	(16.1)
Proceeds from stock options exercised	6.0	3.0	20.3
Contributions by Cargill	-	18.5	-
Repurchase of Class A common stock	-	(1,162.5)	-
Excess tax benefits related to share-based compensation	-	-	13.4
Cash dividends paid	(426.6)	(119.5)	(89.3)
Other	(3.6)	(7.7)	(1.2)
Net cash (used in) financing activities	(397.8)	(1,061.1)	(585.0)
Effect of exchange rate changes on cash	(13.8)	(112.7)	113.8
Net change in cash and cash equivalents	(113.9)	(95.4)	1,383.4
Cash and cash equivalents—beginning of period	3,811.0	3,906.4	2,523.0
Cash and cash equivalents—end of period	\$ 3,697.1	3,811.0	3,906.4

See Accompanying Notes to Consolidated Financial Statements

# Table of Contents

## Consolidated Statements of Equity In millions, except per share data

		Mosaic Shareholders					
	Shares	Dollars					
	Common Stock <sup>(a)</sup>	Common Stock <sup>(a)</sup>	Capital in Excess of Par Value	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Non- Controlling Interests	Total Equity
Balance as of May 31, 2010	445.4	\$ 4.5	\$ 2,523.0	\$ 5,905.3	\$ 289.4	\$ 26.2	\$ 8,748.4
Total comprehensive income	-	-	-	2,514.6	420.8	1.5	2,936.9
Stock option exercises	1.2	-	20.3	-	-	-	20.3
Amortization of share based compensation	-	-	21.1	-	-	-	21.1
Contributions from Cargill, Inc.	-	-	18.5	-	-	-	18.5
Dividends (\$0.20 per share)	-	-	-	(89.3)	-	-	(89.3)
Dividends for noncontrolling interests	-	-	-	-	-	(4.8)	(4.8)
Acquisition of noncontrolling interest	-	-	-	-	-	(2.6)	(2.6)
Tax benefits related to share based compensation	-	-	13.4	-	-	-	13.4
Balance as of May 31, 2011	446.6	4.5	2,596.3	8,330.6	710.2	20.3	11,661.9
Total comprehensive income (loss)	-	-	-	1,930.2	(332.2)	(3.3)	1,594.7
Stock option exercises / Restricted stocks units vested	0.2	-	3.0	-	-	-	3.0
Amortization of share based compensation	-	-	23.4	-	-	-	23.4
Repurchase of Class A common stock	(21.3)	(0.2)	(1,162.3)	-	-	-	(1,162.5)
Dividends (\$0.275 per share)	-	-	-	(119.5)	-	-	(119.5)
Dividends for noncontrolling interests	-	-	-	-	-	(0.7)	(0.7)
Tax shortfall related to share based compensation	-	-	(0.9)	-	-	-	(0.9)
Balance as of May 31, 2012	425.5	4.3	1,459.5	10,141.3	378.0	16.3	11,999.4
Total comprehensive income (loss)	-	-	-	1,888.7	(51.6)	2.4	1,839.5
Stock option exercises	0.3	-	6.0	-	-	-	6.0
Amortization of stock based compensation	-	-	28.2	-	-	-	28.2
Dividends (\$1.00 per share)	-	-	-	(426.6)	-	-	(426.6)
Dividends for noncontrolling interests	-	-	-	-	-	(1.2)	(1.2)
Tax shortfall related to stock option exercises	-	-	(2.4)	-	-	-	(2.4)
Balance as of May 31, 2013	425.8	\$ 4.3	\$ 1,491.3	\$ 11,603.4	\$ 326.4	\$ 17.5	\$ 13,442.9

<sup>(a)</sup> On May 25, 2011, we retired our outstanding common stock and recapitalized into three classes: Common Stock, Class A Common Stock and Class B Common Stock in connection with the Cargill Transaction discussed in Note 2 of our Notes to Consolidated Financial Statements. There was no change in the number or value of shares outstanding.

See Accompanying Notes to Consolidated Financial Statements